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# federal register

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## THE FEDERAL REGISTER

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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** February 28, at 9:00 a.m.  
**WHERE:** Office of the Federal Register,  
 First Floor Conference Room,  
 1100 I. Street NW., Washington, DC  
**RESERVATIONS:** 202-523-5240

### LOS ANGELES, CA

**WHEN:** March 4, at 9:00 a.m.  
**WHERE:** Federal Building,  
 300 N. Los Angeles St.  
 Conference Room 8544  
 Los Angeles, CA  
**RESERVATIONS:** 1-800-726-4995

### SAN DIEGO, CA

**WHEN:** March 5, at 9:00 a.m.  
**WHERE:** Federal Building,  
 880 Front St.  
 Conference Room 45-13  
 San Diego, CA  
**RESERVATIONS:** 1-800-726-4995



# Contents

Federal Register

Vol. 56, No. 27

Friday, February 8, 1991

## Agricultural Marketing Service

### RULES

Filberts/hazelnuts grown in Oregon and Washington, 5151

Perishable Agricultural Commodities Act; practice rules:

Reparation proceedings, and person responsibly  
connected with licensee, 5151

### PROPOSED RULES

Cucumbers, seedless European, grown in United States,  
5161

### NOTICES

Meetings:

Cotton Marketing Advisory Committee, 5193

## Agriculture Department

See Agricultural Marketing Service; Commodity Credit  
Corporation; Forest Service; Soil Conservation Service

## Air Force Department

### NOTICES

Meetings:

Scientific Advisory Board, 5197

## Army Department

See Engineers Corps

## Blind and Other Severely Handicapped, Committee for Purchase From

See Committee for Purchase From the Blind and Other  
Severely Handicapped

## Coast Guard

### RULES

Ports and waterways safety:

Cape Fear River, NC; security zone, 5156  
(2 documents)

Cooper River SC; safety zone, 5155

### PROPOSED RULES

Drawbridge operations:

Louisiana, 5166

## Commerce Department

See National Oceanic and Atmospheric Administration;  
National Technical Information Service

## Committee for Purchase From the Blind and Other Severely Handicapped

### NOTICES

Procurement list; additions and deletions, 5196, 5197  
(3 documents)

## Committee for the Implementation of Textile Agreements

### NOTICES

Export visa requirements; certification, waivers, etc.:  
Brazil, 5195

## Commodity Credit Corporation

### PROPOSED RULES

Export programs:

Agricultural commodities procurement, 5161

### NOTICES

Meetings; Sunshine Act, 5247

## Defense Department

See Air Force Department; Engineers Corps

## Drug Enforcement Administration

### NOTICES

Applications, hearings, determinations, etc.:

K-9 Drug Detection Service of Florida, Inc., 5238

Schnitzer, Michael J., M.D., 5239

Tombo, Jose M., M.D., 5239

## Education Department

### NOTICES

Agency information collection activities under OMB review,  
5197

Postsecondary education:

Higher Education Act of 1965; common financial reporting  
form used to determine student need and eligibility;  
Federal data elements, 5298

## Employment and Training Administration

### NOTICES

Job Training Partnership Act:

Indian and Native American programs; reporting  
revisions (1991 and 1992 PY), 5254

## Employment Standards Administration

### NOTICES

Minimum wages for Federal and federally-assisted  
construction; general wage determination decisions,  
5239

## Energy Department

See also Federal Energy Regulatory Commission

### NOTICES

Environmental statements; availability, etc.:

Superconducting super collider, 5198

Grant and cooperative agreement awards:

Dravo Lime Co., 5200

South Carolina Energy Research & Development Center,  
5200

Natural gas exportation and importation:

Mock Resources, Inc., 5213

## Engineers Corps

### RULES

Danger zones and restricted areas:

Stapleton Naval Station, Staten Island, NY, 5300

## Environmental Protection Agency

### PROPOSED RULES

Air programs; fuel and fuel additives:

Clean fuels; guidelines and proposed regulations  
negotiating advisory committee, 5167

Air quality implementation plans; approval and  
promulgation; various States:

Arizona, 5173

### NOTICES

Environmental statements; availability, etc.:

Agency statements—

Comment availability, 5215

Weekly receipts, 5214



Grants, State and local assistance:  
Financial assistance programs—  
Climate change State program, 5215

#### **Federal Aviation Administration**

##### **RULES**

Control zones, 5153  
Restricted areas, 5154  
Transition areas, 5154  
**PROPOSED RULES**  
Control zones, 5164  
Jet routes, 5165  
Rulemaking petitions; summary and disposition, 5164

#### **Federal Communications Commission**

##### **RULES**

Radio stations; table of assignments:  
Florida, 5158  
Georgia, 5157

##### **PROPOSED RULES**

Common carrier services:  
Access charges—  
Common transport and dedicated transport, 5190  
Radio stations; table of assignments:  
California, 5191

##### **NOTICES**

Meetings; Sunshine Act, 5247

#### **Federal Deposit Insurance Corporation**

##### **NOTICES**

Meetings; Sunshine Act, 5247

#### **Federal Energy Regulatory Commission**

##### **NOTICES**

Electric rate, small power production, and interlocking  
directorates filings, etc.:  
Niagara Mohawk Power Co. et al., 5200  
Northern States Power Co. et al., 5201  
Natural gas certificate filings:  
El Paso Natural Gas Co. et al., 5203  
Northwest Pipeline Corp. et al., 5208  
*Applications, hearings, determinations, etc.:*  
Anabaco Operating Co. et al., 5213  
Providence Gas Co. et al., 5213

#### **Federal Maritime Commission**

##### **NOTICES**

Agreements filed, etc., 5215, 5216  
(2 documents)  
Meetings; Sunshine Act, 5247

#### **Federal Reserve System**

##### **NOTICES**

Meetings; Sunshine Act, 5247  
*Applications, hearings, determinations, etc.:*  
Illinois State Bancorp. Inc., et al., 5216  
MetroBancorp, 5216  
Redwood Empire Bancorp, 5217  
Zeal, Harley L., et al., 5217

#### **Federal Retirement Thrift Investment Board**

##### **NOTICES**

Meetings:  
Employee Thrift Advisory Council, 5218

#### **Fish and Wildlife Service**

##### **PROPOSED RULES**

Endangered and threatened species:  
Argali sheep, 5192

##### **NOTICES**

Endangered and threatened species:  
Recovery plans—  
Cracking pearly mussel, 5234  
Fanshell mussel, 5234

#### **Food and Drug Administration**

##### **NOTICES**

Meetings:  
Advisory committees, panels, etc., 5218

#### **Forest Service**

##### **NOTICES**

Environmental statements; availability, etc.:  
Idaho Panhandle National Forests, ID, 5193

#### **Health and Human Services Department**

*See* Food and Drug Administration; Public Health Service

#### **Health Resources and Services Administration**

*See* Public Health Service

#### **Housing and Urban Development Department**

##### **NOTICES**

Grants and cooperative agreements; availability, etc.:  
Facilities to assist homeless—  
Excess and surplus Federal property, 5221  
Meetings:  
Regulatory Barriers to Affordable Housing Advisory  
Commission, 5220

#### **Indian Affairs Bureau**

##### **NOTICES**

Indian tribes, acknowledgment of existence determinations,  
etc.:  
Etowah Cherokee Nation, 5252

#### **Interior Department**

*See also* Fish and Wildlife Service; Indian Affairs Bureau;  
Land Management Bureau; National Park Service

##### **NOTICES**

Meetings:  
Indian Affairs Bureau reorganization Joint Tribal/BIA/  
DOI Advisory Task Force, 5228

#### **International Trade Commission**

##### **NOTICES**

Import investigations:  
Automotive fuel caps and radiator caps and related  
packaging and promotional materials, 5236

#### **Interstate Commerce Commission**

##### **NOTICES**

Meetings; Sunshine Act, 5248  
Motor carriers:  
Compensated intercorporate hauling operations, 5236  
Railroad services abandonment:  
KCT Railway Corp., 5237

#### **Justice Department**

*See also* Drug Enforcement Administration; Prisons Bureau

##### **NOTICES**

Pollution control; consent judgments:  
Elkem Metals Co. et al., 5237  
Wisconsin Tissue Mills, Inc., 5238

#### **Labor Department**

*See* Employment and Training Administration; Employment  
Standards Administration



**Land Management Bureau****NOTICES**

## Conservation and recreation areas:

California Desert Conservation Area Plan, 5229

## Environmental statements; availability, etc.:

Washakie Resource Area, WY, 5229

## Meetings:

Shoshone District Grazing Advisory Board, 5230

## Organization, functions, and authority delegations:

Wyoming State office public room hours, 5230

## Realty actions; sales, leases, etc.:

Montana, 5230

New Mexico, 5232

## Resource management plans, etc.:

Garnet Resource Area, MT, 5232

## Withdrawal and reservation of lands:

Montana, 5232

Nevada, 5233

**Legal Services Corporation****NOTICES**

Meetings; Sunshine Act, 5248

**National Oceanic and Atmospheric Administration****RULES**

## Fishery conservation and management:

Gulf of Alaska groundfish, 5158

Western Pacific bottomfish and seamount groundfish,  
5159

Western Pacific pelagic, 5159

**PROPOSED RULES**

## Marine sanctuaries:

Stellwagen Bank National Marine Sanctuary, MA, 5282

**NOTICES**

## Environmental statements; availability, etc.:

Stellwagen Bank National Marine Sanctuary, MA, 5294

**National Park Service****NOTICES**

## Environmental statements; availability, etc.:

Lake Mead National Recreation Area, NV, 5235

## Meetings:

George Washington Memorial and Clara Barton

Parkways; rehabilitation project; public information  
open house, 5235

## National Register of Historic Places:

Pending nominations, 5235

**National Technical Information Service****NOTICES**Joint ventures program; electronic media production service  
agreements:

Government Counselling Ltd., 5194

**Prisons Bureau****PROPOSED RULES**

## Inmate control, custody, care, etc.:

Classification and program review, 5302

Visiting regulations, 5303

**Public Health Service***See also* Food and Drug Administration**NOTICES**Agency information collection activities under OMB review,  
5219

## Organization, functions, and authority delegations:

Centers for Disease Control, 5220

**Resolution Trust Corporation****NOTICES**

Meetings; Sunshine Act, 5248

**Securities and Exchange Commission****NOTICES**

## Committees; establishment, renewal, termination, etc.:

Market Oversight and Financial Services Advisory  
Committee, 5240

Meetings; Sunshine Act, 5248

**Small Business Administration****NOTICES**

## Disaster loan areas:

Alabama et al., 5241

Indiana et al., 5241

Mississippi et al., 5241

Tennessee et al., 5241, 5242

(2 documents)

**Soil Conservation Service****NOTICES**

## Watershed projects; deauthorization of funds:

Cobb Brook Watershed, MA, 5194

**State Department****NOTICES**

## Passport travel restrictions, U.S.:

Iraq and Kuwait, 5242

**Textile Agreements Implementation Committee***See* Committee for the Implementation of Textile  
Agreements**Transportation Department***See also* Coast Guard; Federal Aviation Administration**NOTICES**

## Secretarial determinations:

Aviation insurance coverage; commercial air carrier  
service to Saudi Arabia et al., 5242**United States Information Agency****NOTICES**

## Grants and cooperative agreements; availability, etc.:

Private non-profit organizations in support of  
international educational and cultural activities, 5245

People with disabilities, 5243

Private sector English teaching efforts in Central and  
Eastern European countries, 5244**Veterans Affairs Department****NOTICES**Agency information collection activities under OMB review,  
5246**Separate Parts in This Issue****Part II**

Department of the Interior, Bureau of Indian Affairs, 5252

**Part III**Department of Labor, Employment and Training  
Administration, 5254**Part IV**Department of Commerce, National Oceanic and  
Atmospheric Administration, 5282



**Part V**

Department of Education, 5298

**Part VI**

Department of Defense, Engineer Corps, 5300

**Part VII**

Department of Justice, Prisons Bureau, 5302

**Reader Aids**

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.



**CFR PARTS AFFECTED IN THIS ISSUE**

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**7 CFR**

47..... 5151  
992..... 5151

**Proposed Rules:**

968..... 5161  
1496..... 5161

**14 CFR**

71 (2 documents)..... 5153,  
5154  
73..... 5154

**Proposed Rules:**

Ch. I..... 5164  
71..... 5164  
75..... 5165

**15 CFR****Proposed Rules:**

940..... 5282

**28 CFR****Proposed Rules:**

524..... 5302  
540..... 5303

**33 CFR**

165 (3 documents)..... 5155,  
5156  
334..... 5300

**Proposed Rules:**

117..... 5166

**40 CFR****Proposed Rules:**

Ch. I..... 5167  
52..... 5173

**47 CFR**

73 (2 documents)..... 5157,  
5158

**Proposed Rules:**

69..... 5190  
73..... 5191

**50 CFR**

672..... 5158  
683..... 5159  
685..... 5159

**Proposed Rules:**

17..... 5192



THE STATE OF TEXAS, COUNTY OF DALLAS.

I, the undersigned, Judge of the County of Dallas, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears on the records of said County.

Witness my hand and the seal of said County, at Dallas, Texas, this 1st day of January, 1901.

Judge of the County of Dallas.

Notary Public for the State of Texas.

My Comm. Expires Jan. 1, 1902.



# Rules and Regulations

Federal Register

Vol. 56, No. 27

Friday, February 8, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 47

[Docket No. FV-91-352]

**General Provisions, Rules of Practice Applicable to Reparation Proceedings, and Rules Applicable to the Determination as to Whether a Person is Responsibly Connected With a Licensee Under the Perishable Agricultural Commodities Act**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** An amendment to the Rules of Practice concerning the method of service of documents or papers, published at 56 FR 173, January 3, 1991, contained a typographical error, omitting certain language. This corrects that.

**EFFECTIVE DATE:** January 3, 1991.

**FOR FURTHER INFORMATION CONTACT:** John J. Casey, Office of the General Counsel, 2446 South Building, USDA, Washington, DC 20250-1400, 202/447-7357.

#### SUPPLEMENTARY INFORMATION:

Accordingly 7 CFR part 47 is amended as set forth below.

#### PART 47—[AMENDED]

1. The authority citation for 7 CFR part 57 continues to read as follows:

Authority: 7 U.S.C. 499o; 7 CFR 2.17(a)(3)(xiii), 2.50(a)(3)(xiii).

2. Section 47.4(b)(1) is amended by revising all matter preceding the phrase "a final order" to read as follows:

§ 47.4 Filing; service; extensions of time; and computation of time.

\* \* \* \* \*

(b) *Service on Party.* (1) Any complaint or other document initially served on a person to make that person a party respondent in a proceeding, a determination that a person was responsibly connected with a licensee, \* \* \*.

Dated: February 4, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-2972 Filed 2-7-91; 8:45 am]

BILLING CODE 3410-02-M

#### 7 CFR Part 982

[FV-91-228 IFR]

**Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1990-91 Marketing Year**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule establishes interim and final free and restricted percentages for domestic inshell filberts/hazelnuts for the 1990-91 marketing year under the Federal marketing order for filberts/hazelnuts grown in Oregon and Washington. The percentages indicate the amount of domestically produced filberts/hazelnuts which may be marketed in domestic, export and other outlets. The percentages are intended to stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand for such filberts/hazelnuts and provide reasonable returns to producers. This action was recommended by the Filbert/Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

**DATES:** This interim final rule is effective on February 8, 1991. Comments which are received by March 11, 1991, will be considered prior to any finalization of this interim final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the date

and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of filberts/hazelnuts subject to regulation under the filbert/hazelnut marketing order and approximately 1,000 producers in the Oregon and Washington production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The



majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

The Board's recommendation and this interim final rule are based on requirements specified in the order. This interim final rule will restrict the amount of inshell filberts/hazelnuts that can be marketed in domestic markets. The domestic outlets for this commodity are characterized by limited demand, and the establishment of free and restricted percentages will benefit the industry by promoting stronger marketing conditions and stabilizing prices and supplies, thus improving grower returns.

The Board is required to meet prior to September 20 of each marketing year to compute an inshell trade demand and preliminary free and restricted percentages, if the use of volume regulation is to be recommended during the season. The order prescribes formulas for computing the inshell trade demand, as well as preliminary, interim final, and final percentages. The inshell trade demand establishes the amount of inshell filberts/hazelnuts the market can utilize throughout the season. The preliminary percentages release 80 percent of the inshell trade demand, while the interim and final percentages release 100 percent and 115 percent, respectively, of the inshell trade demand.

The inshell trade demand, rounded to the nearest whole number, equals the average of the preceding three "normal" years' trade acquisitions of inshell filberts/hazelnuts, with the provision that the Board may increase such estimate by no more than 25 percent, if market conditions warrant such an increase.

The preliminary free and restricted percentages make available portions of the filbert/hazelnut crop which may be marketed in domestic inshell markets (free) and exported or shelled (restricted) early in the 1990-91 season. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation and is based on preliminary crop estimates.

At its August 27, 1990, meeting, the Board computed and announced preliminary free and restricted percentages of 17 and 83 percent, respectively, to release 80 percent of the inshell trade demand. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against underestimates of the crop. The preliminary restricted percentage is 100 percent minus the free percentage. The preliminary percentages release 80 percent of the inshell trade demand in order to protect against underestimates

of the crop. The majority of domestic inshell filberts/hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

On or before November 15, the Board must meet to recommend to the Secretary interim percentages which release 100 percent of the inshell trade demand and final percentages which release an additional 15 percent of the three-year-average trade acquisitions.

The Board uses current crop estimates to calculate the interim final and final percentages. The interim percentages are calculated in the same way as the preliminary percentages and release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. Final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions to ensure an adequate carryover into the following season. The final free and restricted percentages must be effective at least 30 days prior to the end of the marketing year (July 1 through the following June 30), or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

In accordance with order provisions, the Board met on November 13, 1990, reviewed, and approved an amended marketing policy and recommended the establishment of interim and final free and restricted percentages of 21 and 79 percent and 24 and 76 percent, respectively. The Board also recommended that the final percentages be effective on May 1, 1991, which is 60 days prior to the end of the season. The marketing percentages are based on the industry's final production estimates and release 4,740 tons to the domestic inshell market. The Oregon Agricultural Statistics Service provided an early estimate of 21,000 tons total production for the Oregon and Washington area. However, a handler survey conducted by the Board provided a more current estimate of 21,800 tons total production for the area. Therefore, the Board voted to unanimously accept the more current estimate of 21,800 tons.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1990-91 marketing year:

Inshell Supply	Tons	
(1) Total production (Filbert/Hazelnut Marketing Board Handler survey estimate).....	21,800	
(2) Less substandard, farm use (disappearance).....	2,150	
(3) Merchantable production (the Board's adjusted crop estimate).....	19,650	
(4) Plus undeclared carryin as of July 1, 1989, subject to regulation ...	0	
(5) Supply subject to regulation (Item 3 plus Item 4).....	19,650	
(6) Average trade acquisition based on three prior years' domestic sales.....	4,371	
(7) Increase to encourage increased sales (10 percent).....	437	
(8) Less declared carryin as of July 1, 1989, not subject to regulation....	724	
(9) Inshell Trade Demand.....	4,084	
(10) 15 percent of the average trade acquisitions based on three years domestic sales.....	656	
(11) Inshell Trade Demand plus 15 percent (Item 9 plus Item 10).....	4,740	
Percentages	Free	Restricted
(12) Interim percentages (Item 9 divided by Item 5) × 100.....	21	79
(13) Final percentages (Item 11 divided by Item 5) × 100.....	24	76

In addition to complying with the provisions of the marketing order, the Board also considers the U.S. Department of Agriculture's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell filberts/hazelnuts available for sale in domestic markets. The Guidelines require this primary market to have available a quantity equal to 110 percent of recent years' sales in those outlets before secondary market allocations are approved. This is to provide for plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations. In order to meet expected needs of the trade and to comply with the Guidelines, an increase of 10 percent (437 tons) has been included in the calculations used in determining the inshell trade demand. The established interim and final percentages, which release 100 percent and 115 percent, respectively, of the inshell trade demand, will make available 110 percent and 125 percent, respectively, of prior year's sales, thus exceeding the requirements of the Guidelines.

Based on available information, the Administrator of the AMS has



determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the establishment of interim and final free and restricted percentages, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because: (1) The 1990-91 marketing year began on July 1, 1990, and the percentages established herein apply to all merchantable filberts/hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this action, which was recommended at an open Board meeting, and need no additional time to comply with these percentages which release more filberts/hazelnuts than the preliminary percentages; and (3) interested persons are provided a 30-day comment period regarding this interim rule. All comments timely received will be considered prior to finalization of this action.

#### List of Subjects in 7 CFR Part 982

Filberts/hazelnuts, Marketing agreements and orders, Oregon, and Washington.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

#### PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

#### Subpart—Grade and Size Regulation

2. Section 982.240 is added to read as follows:

**Note:** This section will not appear in the Code of Federal Regulations.

#### § 982.240 Free and restricted percentages—1990-91 marketing year.

(a) The interim free and restricted percentages for merchantable filberts/hazelnuts for the 1990-91 marketing year shall be 21 and 79 percent, respectively.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1990-91 marketing year

shall be 24 and 76 percent, respectively. These percentages will be effective on May 1, 1991.

Dated: February 4, 1991.

Robert C. Keeney,  
Deputy Director, Fruit and Vegetable  
Division.

[FR Doc. 91-3076 Filed 2-7-91; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 90-ANE-07]

#### Amendment to Control Zone; Norwood, MA

**AGENCY:** Federal Aviation  
Administration [FAA], DOT.

**ACTION:** Final rule.

**SUMMARY:** This action will amend the description of the Norwood, Massachusetts Control Zone. The description of the Norwood, Massachusetts Control Zone is being changed to reflect the decommissioning of the Whitman VOR and to delete airspace no longer needed to protect instrument approaches to the Norwood Memorial Airport.

**EFFECTIVE DATE:** 0901 u.t.c., March 14, 1991.

**FOR FURTHER INFORMATION CONTACT:** Charles Taylor, System Management Branch, ANE-530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA, 01803-5299; telephone: (617) 270-2428.

#### SUPPLEMENTARY INFORMATION:

##### History

On May 9, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Control Zone at Norwood, Massachusetts (55 FR 19272). The proposed action would reflect the decommissioning of the Whitman VOR and delete airspace no longer needed to protect the instrument approaches to the Norwood Memorial Airport using that facility.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA

Handbook 7400.6G, dated September 4, 1990.

#### The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the description of the Norwood, Massachusetts Control Zone and deletes airspace no longer need to protect instrument approaches to the Norwood Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT 1979; and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will not only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Aviation safety, control zones.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.171 [Amended]

2. Section 71.171 is amended as follows:

##### Norwood, MA [Revised]

Within a 5-mile radius of the center "(Lat. 42° 11' 27" N., Long. 71° 10' 25" W.)" of Norwood Memorial Airport, Norwood, MA, "and within 2 miles each side of the 144(T) 160(M) degree bearing from the center of the Norwood Memorial Airport extending from the 5-mile radius zone to a point of 6 miles southeast of the airport." This Control Zone is effective daily from 0700 to 2300 hours, local time or during the specific times established in advance by Notice to airmen, which, thereafter, will be continuously published in the Airport/Facility Directory.



Issued in Burlington, Massachusetts on January 29, 1991.

John J. Boyce,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 91-3005 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 90-ASW-41]

#### Revision of Transition Area; Las Cruces, NM

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises the transition area located at Las Cruces, NM. The creation of two original standard instrument approach procedures (SIAP), NDB RWY 8 and NDB RWY 30, with the concurrent termination of the NDB A SIAP, makes this action necessary. In addition, this action revises the coordinates used to describe the transition area derived from survey results and revises the airport name to the Las Cruces International Airport. This action will provide adequate controlled airspace for aircraft executing the new SIAP's to the Las Cruces International Airport.

**EFFECTIVE DATE:** 0901 U.T.C., April 4, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mark F. Kennedy, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

#### SUPPLEMENTARY INFORMATION:

##### History

On October 19, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Las Cruces, NM (55 FR 42399).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G, dated September 4, 1990.

##### The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise

the transition area located at Las Cruces, NM. The creation of two original SIAP's, NDB RWY 8 and NDB RWY 30, and the concurrent termination of the NDB A SIAP, have necessitated this action. This action will revise the 700-foot transition around the Las Cruces International Airport by eliminating the arrival extension to the south.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Aviation Safety, Transition Areas.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

##### § 71.181 [Amended]

2. Section 71.181 is amended as follows:

##### Las Cruces, NM [Revised]

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Las Cruces International Airport (latitude 32°17'22" N., longitude 106°55'17" W.).

Issued in Fort Worth, TX on January 25, 1991.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 91-3006 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 73

[Airspace Docket No. 90-ASO-27]

#### Amendment of Using Agency for Restricted Areas R-2914A, R-2914B, R-2915A, R-2915B, R-2915C, R-2917, R-2918, R-2919A, R-2919B; FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action changes the name of the present using agency for Restricted Areas R-2914A, R-2914B, R-2915A, R-2915B, R-2915C, R-2917, R-2918, R-2919A, and R-2919B, Valparaiso, FL, from "Commander, Armament Development and Trust Center (ADTC), Eglin Air Force Base (AFB), FL," to "Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL."

**EFFECTIVE DATE:** 0901 u.t.c., April 4, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mike Ostapiej, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9573.

#### SUPPLEMENTARY INFORMATION:

##### The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the name of the using agency for Restricted Areas R-2914A, R-2914B, R-2915A, R-2915B, R-2915C, R-2917, R-2918, R-2919A, and R-2919B, Valparaiso, FL, from "Commander, Armament Development and Test Center (ADTC), Eglin AFB, FL," to "Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL." This action is an administrative change resulting from the Air Force's redesignation of the name of the present using agency organization. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.29 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)



does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

#### PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

##### § 73.29 [Amended]

2. Section 73.29 is amended as follows:

R-2914A, R-2914B, R-2915A, R-2915B, R-2915C, R-2917, R-2918, R-2919A, and R-2919B Valparaiso, FL [Amended]

By removing the present Using agency and substituting the following:

Using agency, U.S. Air Force, Commander, Air Force Development Test Center (AFDTC), Eglin AFB, FL.

Issued in Washington, DC on January 30, 1991.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 91-3009 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-13-M

#### Coast Guard

#### 33 CFR Part 165

[SC Regulation 91-04]

#### COTP Charleston; Safety Zone Regulations; Cooper River, SC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the Cooper River off Pier Yankee of the Charleston Naval Base. Underwater construction operations off this pier will require the west side of the navigation channel to be closed to all vessel traffic for approximately fourteen weeks from January 8, 1991 to April 14, 1991. This work will exclude navigation on the west side of the channel and will restrict

vessel traffic to one way navigation on the eastern half of the Cooper River in the vicinity of Pier Yankee. A safety zone is needed to safeguard construction personnel, divers, vessels, facilities, and the environment against injury, destruction, or loss while construction operations are ongoing. The Captain of the Port, Charleston, SC, as prohibited all navigation unrelated to the construction operations on the west side of the Cooper River navigation channel and limited vessel traffic to one way only on the east side of the channel off Navy Pier Yankee (charted as Daniel Island Reach).

**EFFECTIVE DATES:** This regulation becomes effective at approximately 6 o'clock a.m. Eastern Standard Time (e.s.t.), January 8, 1991. It terminates at 6 o'clock p.m. e.s.t. April 14, 1991 unless sooner terminated by the Captain of the Port, Charleston, SC.

**FOR FURTHER INFORMATION CONTACT:** ENS Thomas Glynn, USCG, at the Marine Safety Office, Charleston, SC (phone no. 803-720-7703).

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard personnel, vessels, waterfront facilities, and the environment against injury, loss, or destruction.

#### Drafting Information

The drafters of this regulation are ENS Thomas Glynn, project officer for the Captain of the Port, Charleston, SC, and LT Genelle Tanos, project attorney, Seventh Coast Guard District.

#### Discussion of Regulation

The operation requiring this regulation will begin on January 8, 1991 and continue for approximately fourteen weeks through April 14, 1991 when the Navy conducts repairs and modifications to submerged cables and equipment buried in the bottom of the Cooper River off Pier Yankee. A construction barge will be anchored approximately 250 yards off the pier. Between the barge and the pier face will be several buoys marking anchor cable and equipment on the channel bottom. Construction operations will take place during daylight hours only but all equipment will be left in place at night. Divers will be in the water during daylight hours while construction operations are ongoing. Temporary

lighted green channel buoys will be placed approximately 250 yards north and south of the construction site along the channel centerline to mark the temporary western boundary of the channel and facilitate navigation through the east side of the channel. Vessels will not be permitted to navigate west of the channel centerline and are limited to one way traffic only on the east side of the navigation channel in the vicinity of Pier Yankee. No delays to mariners are foreseen.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of 33 CFR part 165.

#### Federalism

The action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

#### Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 33 CFR 160.5.

2. A new § 165.T07-04 is added to read as follows:

#### § 165.T07-04 Safety Zone, Cooper River, SC.

Navigation on the west side of the Cooper River in the vicinity of Navy Base Charleston, SC, Pier Yankee is prohibited. Navigation on the east side of the channel in this area is limited to one way only.

(a) *Location.* The following area is a safety zone: An area in the Cooper River extending 250 yards north and 250 yards south of Navy Pier Yankee (position 032 deg. 49.9 min. N latitude, 079 deg. 55.09 min. W longitude) from the pier face across the entire width of the Cooper River navigation channel.

(b) *Effective Date.* This regulation becomes effective on January 8, 1991 at approximately 6 o'clock a.m. e.s.t. It



terminates at 6 o'clock p.m. e.s.t. on April 14, 1991 unless sooner terminated by the Captain of the Port, Charleston, SC.

(c) *Regulations.* (1) The Captain of the Port, Charleston, SC, will activate this safety zone by means of locally promulgated broadcast and published notice to mariners. Once implemented, all vessels and persons not directly involved in the Pier Yankee construction operation are prohibited from navigating on the west side of the channel and shall adhere to the one way vessel traffic scheme on the east side of the Cooper River navigation channel in the vicinity of these construction operations.

(2) The general regulations governing safety zones contained in 33 CFR 165.20 and 165.23 apply.

Dated: January 7, 1991.

R.L. Storch, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Charleston, SC.

[FR Doc. 91-3072 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

#### [COTP Wilmington Regulation (91-004)]

#### Security Zone Regulations: Cape Fear River, North Carolina State Ports Authority, Wilmington, NC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is adding temporary security zone in the Cape Fear River in the vicinity of the North Carolina State Ports Authority (NCSPA). The revised temporary security zone consists of the Cape Fear River near Wilmington, NC, within 100 yards from the face of the NCSPA wharf, including all eleven berths. This security zone is established at the request of the United States Army and Navy and is needed to safeguard vessels and property at NCSPA, and other government property essential to the national security from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, North Carolina.

**EFFECTIVE DATE:** This regulation becomes effective at 1 p.m. January 29, 1991. It terminates at 1 p.m. May 28, 1991 unless sooner terminated by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** LCDR P.A. Richardson, USCG, c/o U.S. Coast Guard Captain of the Port, 272 North Front Street, Suite 500,

Wilmington, NC 28401-3907; telephone (919) 343-4881.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to prevent damage to vessels at NCSPA, government property, or delay to defense operations, essential to the national security.

#### Drafting Information

The drafters of this regulation are LCDR P.A. Richardson, project officer for the Captain of the Port, and CDR Stephen R. Campbell, project attorney, Fifth Coast Guard District Legal Office.

#### Discussion of the Regulation

The events requiring this regulation will begin at 1 p.m. January 29, 1991. These operations are essential to the national security of the United States, and damage to vessels or equipment involved or delay to the operation would seriously damage the security and interests of the United States.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

#### Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-3, and 160.5.

2. In part 165, § 165.T0504 is added to read as follows:

#### § 165.T0504 Security Zone: Cape Fear River in vicinity of North Carolina State Ports Authority, Wilmington, NC.

(a) *Location.* The following area is a security zone: The Cape Fear River in the vicinity of North Carolina State Ports Authority (NCSPA) consisting of the Cape Fear River within 100 yards from the face of the North Carolina State Ports Authority wharf, including all eleven berths.

(b) *Effective Date.* This regulation is effective at 1 p.m. January 29, 1991. It terminates at 1 p.m. May 28, 1991 unless sooner terminated by the Captain of the Port.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, NC.

(2) Persons or vessels requiring entry into or passage through the security zone may request authorization from the Captain of the Port or his designated representative by telephone at (919) 343-4881, or by contacting a Coast Guard vessel patrolling the security zone by radio on Channel 13 or 16.

(3) All vessels entering the security zone may be boarded and examined by the Coast Guard under existing regulations, prior to entry, to ensure compliance with safety and navigation regulations, and to ensure compliance with the general regulations in § 165.33.

(4) Public notice of this regulation will be made by issuing periodic Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the existence of the security zone.

(5) Section 165.33 also contains other general requirements.

Dated: January 29, 1991.

P.J. Pluta,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.

[FR Doc. 91-3073 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

#### [COTP Wilmington Regulation (91-005)]

#### Security Zone Regulations: Cape Fear River, Military Ocean Terminal Sunny Point, Brunswick County, NC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is adding the temporary security zone in the Cape Fear River in the vicinity of Military Ocean Terminal Sunny Point (MOTSU). The revised temporary security zone consists of the Cape Fear River from an east-west line drawn through the Cape Fear River Channel Lighted Buoy 32 (LLNR 28520) (34-02'03" N, 77-56'03" W) to an east-west line drawn through the Cape Fear River Channel Lighted Buoy 22 (LLNR 28365) (33-57'34" N, 77-57'12" W), and 1700 yards to west side of, and 3000 yards to the east side of, the Upper and Lower Midnight Channel Ranges, Reaves Pt. Channel Range, and



Horseshoe Shoal Channel Range. This security zone is established at the request of the United States Army and Navy and is needed to safeguard vessels and property at MOTSU, and other government property essential to the national security from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, North Carolina.

**EFFECTIVE DATE:** This regulation becomes effective at 1 p.m. January 29, 1991. It terminates at 1 p.m. May 28, 1991 unless sooner terminated by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** LCDR P.A. Richardson, USCG, c/o U.S. Coast Guard Captain of the Port, 272 North Front Street, suite 500, Wilmington, NC 28401-3907; telephone (919) 343-4881.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after *Federal Register* publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to prevent damage to vessels at MOTSU, government property, or delay to defense operations, essential to the national security.

#### Drafting Information:

The drafters of this regulation are LCDR P.A. Richardson, project officer for the Captain of the Port, and CDR Stephen R. Campbell, project attorney, Fifth Coast Guard District Legal Office.

#### Discussion of the Regulation:

The events requiring this regulation change will begin at 1 p.m. January 29, 1991. These operations are essential to the national security of the United States, and damage to vessels or equipment involved or delay to the operation would seriously damage the security and interests of the United States.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, navigation (water), Security measures, Vessels, Waterways.

#### Regulation:

In consideration of the foregoing, subpart D of part 165 of title 33, Code of

Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-8, and 160.5.

2. In Part 165, § 165.T0505 is added to read as follows:

**§ 165.T0505 Security Zone: Cape Fear River in vicinity of Military Ocean Terminal Sunny Point (MOTSU), Brunswick County, NC.**

(a) *Location.* The following area is a security zone: The Cape Fear River in the vicinity of Military Ocean Terminal Sunny Point (MOTSU) consisting of the Cape Fear River from an east-west line drawn through the Cape Fear River Channel Lighted Buoy 32 (LLNR 28520) (34-02'03" N 77-56'03" W) to an east-west line drawn through the Cape Fear River Channel Lighted Buoy 22 (LLNR 28365) (33-57'34" N 77-57'12" W), and 1700 yards to west side of, and 3000 yards to the east side of, the Upper and Lower Midnight Channel Ranges, Reaves Pt. Channel Range, and Horseshoe Shoal Channel Range.

(b) *Effective Date.* This regulation is effective at 1 p.m. January 29, 1991. It terminates at 1 p.m. May 28, 1991 unless sooner terminated by the Captain of the Port.

#### (c) Regulations.

(1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, NC.

(2) Persons or vessels requiring entry into or passage through the security zone may request authorization from the Captain of the Port or his designated representative by telephone at (919) 343-4881, or by contacting a Coast Guard vessel patrolling the security zone by radio on Channel 13 or 16.

(3) All vessels entering the security zone may be boarded and examined by the Coast Guard under existing regulations, prior to entry, to ensure compliance with safety and navigation regulations, and to ensure compliance with the general regulations in § 165.33.

(4) Public notice of this regulation will be made by issuing periodic Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the existence of the security zone.

(5) Section 165.33 also contains other general requirements.

Dated: January 29, 1991.

P.J. Pluta,

*Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.*

[FR Doc. 91-3074 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-14-M

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 90-496; RM-7381]

#### Radio Broadcasting Services; Crawford, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 271C3 for Channel 271A at Crawford, Georgia, and modifies the construction permit for Station WGMG(FM) to specify operation on the higher class channel, at the request of Broadcast Investment Properties, Inc. See 55 FR 46232, November 2, 1990. Channel 271C3 can be allotted to Crawford in compliance with the Commission's minimum distance separation requirements with a site restriction of 17 kilometers (10.5 miles) northeast, in order to avoid a short-spacing to Station WGGA, Channel 270A at Cleveland, Georgia, and vacant but applied for Channel 271A at Bolingbroke, Georgia. The coordinates are North Latitude 33-57-10 West Longitude 82-59-30. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 21, 1991.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-496, adopted January 28, 1991, and released February 4, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.



**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 271A and adding Channel 271C3 at Crawford.

Federal Communications Commission.

Andrew J. Rhodes,

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-3059 Filed 2-7-91; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 90-211; RM-7178, RM-7515]

**Radio Broadcasting Services; Gretna, Marianna, Quincy, and Tallahassee, FL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document, at the request of Dolcom Broadcasting, Inc., substitutes Channel 276C2 for Channel 276A at Tallahassee, Florida, and modifies the license of Station WTHZ(FM) to specify operation on the higher class channel. In addition, this action substitutes Channel 227A for Channel 264A at Gretna, Florida, modifies the license for Station WGWD(FM) to specify operation on the new class A channel, substitutes Channel 231A for vacant but applied for Channel 227A at Marianna, Florida, and substitutes Channel 264A for vacant but applied for Channel 274A at Quincy, Florida. See 55 FR 17769, April 27, 1990. Channel 276C2 can be allotted to Tallahassee at its present transmitter site in compliance with the Commission's minimum distance separation requirements with a site restriction 7.4 kilometers (4.6 miles) northeast. Channel 227A can be allotted to Gretna at its present licensed site in compliance with the minimum distance separation requirements with a site restriction of 8.7 kilometers (5.4 miles) southeast. Channel 231A can be substituted for vacant but applied for Channel 227A at Marianna in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.2 kilometers (0.8 mile) south, and Channel 264A can be substituted for vacant but applied for Channel 274A at Quincy in compliance with the Commission's minimum distance separation requirements with a site

restriction of 6.6 kilometers (4.1 miles) southeast. The coordinates for Channel 276C2 at Tallahassee are North Latitude 30-29-43 and West Longitude 84-13-51. The coordinates for Channel 227A at Gretna are North Latitude 30-33-24 and West Longitude 84-36-05. The coordinates for Channel 231A at Marianna are North Latitude 30-45-47 and West Longitude 85-13-52. The coordinates for Channel 264A at Quincy are North Latitude 30-32-05 and West Longitude 84-32-37. This document also denies a counterproposal filed by William F. Dunkle, III, seeking the allotment of Channel 276A at Steinhatchee, Florida, as that community's first local FM service. The counterproposal was denied because Dunkle has not submitted sufficient information to show that Steinhatchee is a community for allotment purposes. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 21, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Nancy J. Walls, Mass Media Bureau (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-211, adopted January 24, 1991, and released February 4, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 264A and adding Channel 227A at Gretna, by removing Channel 227A and adding Channel 231A at Marianna, by removing Channel 274A and adding Channel 264A at Quincy, and by removing Channel 276A and adding Channel 276C2 at Tallahassee.

Federal Communications Commission.

Andrew J. Rhodes,

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-3060 Filed 2-7-91; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 672**

[Docket No. 901184-0248]

**Groundfish of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of closure.

**SUMMARY:** The Director, Alaska Region, NMFS, (Regional Director), has determined that the interim total allowable catch (TAC) specified for pollock in the Shelikof Strait District of the combined Western/Central Regulatory Area of the Gulf of Alaska has been reached. The Secretary of Commerce (Secretary) will treat pollock in the Shelikof Strait District as a prohibited species and will prohibit further retention of pollock in the Shelikof Strait District effective 12:00 noon, Alaska local time (A.l.t.), February 4, 1991, until March 31, 1991, or until superseded. This action is necessary to prevent the interim TAC of pollock in the Shelikof Strait District from being exceeded before the end of the first quarter. The intent of this action is to ensure optimum use of groundfish while conserving pollock stocks.

**EFFECTIVE DATE:** This notice is effective from 12:00 noon from February 4, 1991, A.l.t., until March 31, 1991, or until superseded.

**FOR FURTHER INFORMATION CONTACT:**

Jessica A. Gharrett, Resource Management Specialist, NMFS, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone within the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is TAC, as defined in § 672.20(c)(1). Regulations implementing the FMP provide that one-



fourth of the preliminary specifications (not including the reserves and the first quarterly allowance of pollock) and one-fourth of the halibut prohibited species catch amounts will be in effect on January 1 on an interim basis and will remain in effect until superseded by a Federal Register notice of final specifications (§ 672.20(c)(1)(i)). The notice of preliminary specifications for the 1991 fishing year proposed a TAC of pollock for the Shelikof Strait District of the combined Western/Central Regulatory area of 6,250 mt; the interim TAC is 1,562 metric tons (mt) (55 CFR 47897, November 16, 1990).

Under § 672.20(c)(2), if the Regional Director determines that the TAC for any target species or of the "other species" category in a regulatory area or district has been or will be reached, the Secretary will publish a notice in the Federal Register declaring that the species or species group is to be treated in the same manner as a prohibited species under § 672.20(e) in all or part of that area or district.

The interim TAC of pollock for the amount apportioned to Shelikof Strait has been reached, and the Secretary is prohibiting further directed fishing for pollock in the Shelikof Strait District until March 31, 1991, or until superseded.

#### Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

#### List of Subjects in 50 CFR Part 672

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 4, 1991.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 91-3041 Filed 2-4-91; 4:36 pm]

BILLING CODE 3510-22-M

#### 50 CFR Part 683

[Docket No. 900497-0256]

#### Western Pacific Bottomfish and Seamount Groundfish Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Emergency interim rule; extension of effective date.

**SUMMARY:** The Secretary of Commerce (Secretary) extends an emergency rule now in effect that requires vessel operators to notify the National Marine Fisheries Service so that an observer may be placed on board vessels that

will be fishing in the exclusive economic zone within a 50 nautical mile study area around the Northwestern Hawaiian Islands (NWHI). The purpose of these regulations is to gather information on possible interactions of the bottomfish fleet with the endangered Hawaiian monk seal (*Monachus schauinslandi*) and threatened or endangered turtles.

**EFFECTIVE DATES:** The emergency rule is effective from 0001 hours local time February 25, 1991, to 2400 hours local time May 25, 1991.

**ADDRESSES:** A copy of the environmental assessment prepared for the emergency rule may be obtained from E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213-514-8660), or Alvin Katekaru, Pacific Area Office, Southwest Region, Honolulu, Hawaii (808-955-8831).

**SUPPLEMENTARY INFORMATION:** Under the emergency action authority of section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule (55 FR 49050, November 28, 1990) amending the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) and its implementing regulations. The rule, which is effective from 0001 hours local time November 27, 1990, until 2400 hours local time February 24, 1991, requires vessel operators to notify the Regional Director, Southwest Region, when intending to fish within 50 nautical miles of French Frigate Shoals, Gardner Pinnacles, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands and Kure Island in the NWHI. Additional information on the basis for this action may be found in the Federal Register of November 26, 1990.

The Western Pacific Fishery Management Council requested the emergency rule, agrees to this extension, and is proceeding with an amendment to the FMP to make the rule permanent. Because the circumstances in the fishery at the time of implementation of the emergency interim rule still exist, the Secretary extends for 90 days the effective dates of the rule under section 305(e)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule was reported to the Director of the Office of Management and Budget with

an explanation of why following the procedures of that Order was not possible.

#### List of Subjects in 50 CFR Part 683

Fisheries.

Dated: February 1, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-2993 Filed 2-7-91; 8:45 am]

BILLING CODE 3510-22-M

#### 50 CFR Part 685

[Docket No. 900947-0247]

#### Pelagic Fisheries of the Western Pacific Region

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Emergency interim rule; extension of effective date.

**SUMMARY:** The Secretary of Commerce (Secretary) extends an emergency rule now in effect that establishes permit and reporting requirements for all U.S. longline vessels and any associated transshipment vessels operating in the areas covered by the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP), and implements observer requirements for U.S. longline vessels fishing within a 50 nautical mile study area around certain Northwestern Hawaiian Islands (NWHI). The purpose of the rule is to ensure adequate monitoring of the rapidly growing longline fishery, which may be having a dramatic effect on pelagic resources and protected species in the NWHI.

**EFFECTIVE DATES:** The emergency rule is effective from 0001 hours local time February 25, 1991, to 2400 hours local time May 25, 1991.

**ADDRESSES:** A copy of the environmental assessment prepared for the emergency rule may be obtained from E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213-514-8660), or Alvin Katekaru, Pacific Area Office, Southwest Region, Honolulu, Hawaii (808-955-8831).

**SUPPLEMENTARY INFORMATION:** Under the emergency action authority of section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an



emergency rule (55 FR 49285, November 27, 1990) amending the FMP and its implementing regulations. The rule, which is effective from 0001 hours local time November 27, 1990, until 2400 hours local time February 24, 1991, establishes permit and reporting requirements for all longline vessels so that the rapidly growing longline fleet can be monitored effectively for a proper assessment of the fishery on the pelagic resources and on interactions with protected species in the NWHI. Owners of longline vessels also are required to take observers when directed by the Southwest Regional Director, NMFS, if they intend to fish within 50 nautical miles off French Frigate Shoals, Gardner Pinnacles, Laysan Island, Lisianski

Island, Pearl and Hermes Reef, Midway Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands and Kure Island in the NWHI. Additional information on the basis for this action may be found in the *Federal Register* of November 27, 1990.

The Western Pacific Fishery Management Council requested the emergency rule, agrees to this extension, and is proceeding with an amendment to the FMP to make the rule permanent. Because the circumstances in the fishery at the time of implementation of the emergency interim rule still exist, the Secretary extends for 90 days the effective dates of the rule under section 305(e)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule was reported to the Director of the Office of Management and Budget with an explanation of why following the procedures of that Order was not possible.

#### List of Subjects in 50 CFR Part 685

Fisheries.

Dated: February 1, 1991.

Michael F. Tillman,

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 91-2994 Filed 2-7-91; 8:45 am]

BILLING CODE 3510-22-M



# Proposed Rules

Federal Register

Vol 56 No. 27

Friday, February 8, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 968

[Docket No. AO F&amp;V 88-1; FV-88-110]

RIN 0581-AA30

#### Seedless European Cucumbers Grown in the United States; Termination of Proceeding to Formulate a Marketing Agreement and Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Termination of proceeding and withdrawal of proposed rule.

**SUMMARY:** This notice announces the termination of a proceeding to promulgate a proposed marketing agreement and order program for seedless European cucumbers, more commonly known as "greenhouse cucumbers," grown in the United States. Termination is based on the results of a referendum of greenhouse cucumber producers conducted by the U.S. Department of Agriculture (USDA) from October 8 through November 9, 1990.

**DATES:** This withdrawal is effective February 8, 1991.

**FOR FURTHER INFORMATION CONTACT:** Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S Washington, DC 20090-6456; telephone (202) 447-2020.

#### SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding: Notice of Hearing—Issued on June 22, 1988, and published in the *Federal Register* on June 27, 1988 (53 FR 24070); Recommended Decision and Opportunity to File Written Exceptions—Issued on September 29, 1989, and published in the *Federal Register* on October 11, 1989 (54 FR 41601); Reopening and Extension of the Period to File Written Exceptions—Issued on November 17, 1989, and published in the *Federal Register* on November 22, 1989 (54 FR 48252); and

Decision and Referendum Order on Proposed Marketing Agreement and Order—Issued on September 7, 1990, and published in the *Federal Register* on September 17, 1990 (55 FR 38066).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

The proposed marketing agreement and order, hereinafter referred to collectively as the order, were formulated on the record of a public hearing held at Sacramento, California, during July 26-28, 1988, to consider the proposed Marketing Order No. 968 (proposed 7 CFR part 968) regulating the handling of seedless European cucumbers, commonly known as "greenhouse cucumbers," grown in the United States. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR part 900). The Notice of Hearing contained a proposed order submitted by the American Greenhouse Vegetable Growers Association.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service, on September 29, 1989, filed with the Hearing Clerk, USDA, a Recommended Decision providing an opportunity to file written exceptions thereto by November 13, 1989. The period to file written exceptions was subsequently reopened and extended to December 13, 1989. Fourteen exceptions were filed. The Deputy Assistant Secretary for Marketing and Inspection Services, on September 7, 1990, issued a decision setting forth the order as a means of effectuating the declared policy of the Act. The decision directed that a referendum be conducted among greenhouse cucumber producers to determine whether or not the required percentage of producers favored issuance of the order. For issuance of the order, the Act requires a favorable vote of at least two-thirds of the producers voting in the referendum, or by those producing at least two-thirds of the volume of greenhouse cucumbers

grown by those voting in the referendum. During the referendum conducted from October 8 through November 9, 1990, the order failed to receive the required two-thirds vote by count or by volume.

Therefore, it is hereby determined on the basis of the referendum that the order cannot be made effective. Accordingly, the proposed rule issued on September 7, 1990, is hereby withdrawn and the proceeding with respect to the order is terminated.

#### Lists of Subjects in 7 CFR Part 968

Cucumbers, Marketing agreements, Reporting and recordkeeping requirements.

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

**Dated:** January 31, 1991.

**John E. Frydenlund,**

*Deputy Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 91-3042 Filed 2-7-91; 8:45 am]

**BILLING CODE 3410-02-M**

## Commodity Credit Corporation

### 7 CFR Part 1496

#### Procurement of Agricultural Commodities for Export Programs

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend the regulation, appearing at part 1496 of title 7 of the Code of Federal Regulations, which specifies the procedures by which Commodity Credit Corporation (CCC) procures processed agricultural commodities for use under title II of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480), as amended. The proposed rule would apply existing procedures to CCC's procurement of both processed and nonprocessed agricultural commodities, and address the provision of agricultural commodities from CCC inventory, for programs operated under the authority of section 416(b) of the Agricultural Act of 1949, as amended; Titles II and III of Public Law 480; the Food for Progress Act of 1985, as amended; and any other similar export programs as determined appropriate by CCC. The proposed rule



would also establish special procedures applicable to title II, Public Law 480 procurements of bagged, processed, or fortified commodities to comply with the port allocation provisions of section 901b(c) of the Merchant Marine Act, 1936, as added by Section 1525 of the Food, Agriculture, Conservation, and Trade Act of 1990.

**DATES:** Comments on this proposed rule must be received by March 11, 1991.

**ADDRESSES:** Send comments on this notice of proposed rulemaking to: Director, Commodity Operations Division, ASCS, United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013.

All submissions will be available for public inspection during regular business hours in Room 5755, South Building, USDA.

**FOR FURTHER INFORMATION CONTACT:** A. James Firth, Commodity Operations Division, ASCS-USDA, telephone: (202) 475-3565.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that this rule will not result in an annual effect on the economy of \$100 million or more, will not cause a major increase in costs to consumers, individual industries, Federal, State, or local government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Department has prepared a Preliminary Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public from the Director, Commodity Operations Division, ASCS, Room 5755-South Building, 14th and Independence Avenue, SW., Washington, DC 20013.

This action will not have a significant impact upon area and community development. Therefore, review as established by Executive Order 12372 was not used to assure that units of local government are informed of this action.

It has been determined by an environmental evaluation that this

action will not have significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

#### Background

Pursuant to the authority contained in title II of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480), 7 U.S.C. 1721, et seq., CCC makes agricultural commodities available for donation overseas to meet famine or other urgent or extraordinary relief requirements, combat malnutrition, especially in children, and promote economic and community development in friendly developing countries. CCC may pay transportation costs to designated delivery points abroad. Private Voluntary Organizations (PVO's) and intergovernmental organizations such as the World Food Programme are utilized in furnishing most of the agricultural commodities.

CCC makes commodities available for donation overseas from its inventory of agricultural commodities or by procurement on the open market through competitive bids. CCC, through the Agricultural Stabilization and Conservation Service's Kansas City Commodity Office, procures commodities for donation under title II, Public Law 480 utilizing the general principle of awarding contracts on the basis of the lowest landed cost (LLC) to the U.S. Government. CCC determines LLC on a U.S.-flag basis for the quantity of commodities required to be shipped on U.S.-flag vessels. See 7 CFR 1496.5.

Under current procurement procedures, prior to the receipt of offers from commodity suppliers, CCC obtains information on ocean freight rates and services for use in its bid evaluation to determine the LLC for processed commodity procurement contract awards. CCC determines the available ocean service and applicable ocean freight rates by checking trade journal publications or similar sources for availability of appropriate ocean transportation services. Carriers may also submit amended tariff rate quotations and ocean transportation service offers directly to CCC for use in the bid evaluation process.

LLC means the lowest combined total cost of the commodity plus transportation charges to the overseas destination. LLC is calculated on the basis of U.S.-flag rates and service for that portion of the commodities purchased that CCC determines is necessary and practicable to meet cargo preference requirements.

LLC is calculated on an overall basis without regard to country of vessel registry for the balance of the commodities. In making contract awards, CCC may also consider other factors such as the availability and adequacy of ocean service and transit time.

The proposed rule would amend existing regulations at 7 CFR part 1496 to specify that the above described bid evaluation procedure will be followed by CCC in the procurement of agricultural commodities under title II of Public Law 480 that are not processed, bagged, or fortified, and the procurement of all agricultural commodities under the Food for Progress Act of 1985, and title III of Public Law 480 as added by the Food, Agriculture, Conservation, and Trade Act of 1990 (the Act).

In addition, the regulations would be amended to indicate that the same principles, i.e., lowest landed cost to destination with consideration of U.S.-flag service, would be utilized in determining the port of export for all commodities furnished by CCC from its inventory under titles II and III of Public Law 480, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949, as amended, unless otherwise determined appropriate by CCC. Commodities furnished from inventory would include those moving directly from CCC storage sites as well as commodities received through "swap" transactions for export positioning. CCC will, therefore, consider the various cost factors in supplying needed commodities from inventory to destination including such factors as inland transportation, bagging costs, and any other services necessary to furnish the desired commodities. Flexibility in utilizing this procedure for CCC-owned commodities is deemed necessary since CCC may be required to make its allocation decisions based upon factors such as inventory management considerations.

Special bid evaluation procedures will be undertaken for the procurement of processed, bagged, or fortified commodities supplied under title II of Public Law 480. CCC proposes to change its procurement procedure in this regard as a result of an amendment to section 901b(c) of the Merchant Marine Act, 1936, as added by section 1525 of the Act, which requires CCC to take certain actions when allocating title II, Public Law 480 processed, bagged, or fortified commodities. The Act requires that CCC shall (1) allocate 50 percent of the processed, bagged, or fortified commodities on the principle of LLC



(without regard to country of vessel registry), (2) utilize this procedure only to the extent that allocations to Great Lakes ports reach that percentage share of cargo allocated to that port range during 1984, and (3) not allow cargo allocated to Great Lakes ports to be shipped from other port ranges except as necessary to meet the U.S.-flag cargo preference requirement. If cargo is diverted from the Great Lakes port range, and is shipped from another port range to meet cargo preference requirements, CCC must, to the extent necessary and practical, reallocate an equal amount of cargo to the Great Lakes port range within the same calendar year.

CCC has identified two options available to allocate processed, bagged or fortified commodities procured under title II of Public Law 480.

#### Option I

A. CCC would allocate commodities and award contracts using a single computer bid evaluation. The LLC would be calculated on an overall basis (foreign and U.S.-flag vessels) for 50 percent of the title II, Public Law 480 processed, bagged, or fortified commodities to be purchased. The remaining 50 percent will be purchased and allocated on a U.S.-flag vessel LLC basis as under existing procedures.

B. If CCC determines, during the course of any year, that allocations to the Great Lakes port range of such commodities from the 50 percent of cargo allocated on an overall basis will exceed the percentage share experienced in 1984, such excess will be allocated on a U.S.-flag LLC basis. (See section 901b(c)(3)(B) of the Merchant Marine Act, 1936 as amended by section 1525 of the Act.)

C. For the 50 percent of cargo allocated on an overall basis, cargo preference requirements would then have to be met by contracting with U.S.-flag vessels calling at the particular port representing the overall lowest landed cost or by diverting the cargo to other ports where U.S.-flag vessel service is available.

D. If it is necessary to move cargo from Great Lakes ports to another port range in order to comply with cargo preference requirements, CCC will take such steps as it determines necessary and practicable to allocate a like quantity of cargo to the Great Lakes ports during the same calendar year. (See section 901(c)(4) of the Merchant Marine Act, 1936, as amended by section 1525 of the Act.)

E. The quantity replaced at the Great Lakes ports would be in addition to any quantity that would otherwise be

allocated to the Great Lakes port range on a LLC basis.

F. The quantity replaced at the Great Lakes ports would not exceed an amount that would result in the Great Lakes ports being allocated in any year a share of title II, Public Law 480 processed, bagged, or fortified commodities that exceeds the share experienced by that port range in 1984. (See section 901b(c)(3)(B) of the Merchant Marine Act, 1936, as added by section 1525 of the Act.)

#### Option II

A. CCC would allocate commodities and award contracts using two computer bid evaluations. The initial computer evaluation would calculate the allocations for 50 percent of the quantity to be procured on an overall LLC basis without regard to vessel flag and for the remaining 50 percent on a U.S.-flag basis. The quantity of cargo to be allocated to the Great Lakes port range will be determined from this computer evaluation.

B. A second computer evaluation will determine the specific port allocation of all cargo to be purchased. This will be done on the basis of cargo preference requirements for the program. U.S.-flag rates and service will be required for that portion of the balance of commodities being purchased that CCC determines is necessary and practicable to meet total program cargo preference requirements. The awarding of contracts would be on the basis of the results of the second computer bid evaluation, except that the Great Lakes port range allocation would be based on the quantity allocated from the first evaluation and any additional U.S.-flag cargo allocated as a result of the second computer evaluation.

C. The special Great Lakes port allocation requirements stated in paragraphs B., D., E., and F. of Option I will also apply.

CCC believes that Option II is a more efficient and cost effective method of mutually accomplishing the requirements of section 901b(c) of the Merchant Marine Act, 1936, and the requirements of cargo preference legislation. The need to meet cargo preference requirements under Option I with U.S.-flag vessels calling at ports at which cargo is allocated without regard to vessel flags could often result in higher expenditures for ocean transportation than necessary to comply with cargo preference requirements as commodities allocated on an overall LLC basis will not necessarily be allocated to ports serviced by U.S.-flag vessels or with the least costly rates. As a result, less commodities would be

furnished under the humanitarian aid programs involved. Option II largely avoids this result.

CCC invites comments from the public concerning these two options or suggestions regarding alternative approaches. After adoption of a final rule, CCC will issue a detailed explanation of the LLC procedure to ensure that all interested parties are aware of and familiar with the procedure.

Certain nonsubstantive changes are also included in the proposed regulations to reflect updated citations.

#### List of Subjects in 7 CFR Part 1496

Agricultural commodities, Maritime carriers, Exports.

Accordingly, it is proposed that part 1496 of title 7 of the Code of Federal Regulations be amended as follows:

1. The authority citation for part 1496 is revised to read as follows:

Authority: Secs. 201, 202, 204, 206, 301, 303, 403, 407, and 409, Pub. L. 83-480; as amended by Sec. 1512, Pub. L. 101-624; (7 U.S.C. 5676); Sec. 416(b), Pub. L. 81-439, as amended (7 U.S.C. 1431(b)); Sec. 1110, Pub. L. 99-198; as amended (7 U.S.C. 1736o); Secs. 901b(c), Merchant Marine Act, 1936, as amended by sec. 1525, Pub. L. 101-624; (46 U.S.C. App. 1241f(c)).

2. The heading of part 1496 is revised to read as follows:

#### PART 1496—PROCUREMENT OF AGRICULTURAL COMMODITIES FOR EXPORT PROGRAMS

3. Section 1496.1 is revised to read as follows:

##### § 1496.1 General statement.

This subpart sets forth the policies, procedures, and requirements governing procurements, including allocations to U.S. ports, of agricultural commodities for donation under titles II and III, Public Law 480; the Food and Progress Act of 1985, as amended, and other programs determined appropriate by CCC. The policies and procedures set forth in this regulation will also apply to agricultural commodities allocated from CCC-owned stocks under the above programs and section 416(b) of the Agricultural Act of 1949, as amended, unless otherwise determined to be in the best interests of CCC.

4. Section 1496.2 is amended by revising paragraph (b) to read as follows:

##### § 1496.2 Administration

\* \* \* \* \*

(b) Purchases or the furnishing of commodities from CCC-owned stocks will be undertaken to fulfill commodity



requests for the programs specified in section 1496.1.

5. The first sentence of § 1496.4 is revised to read as follows:

**§ 1496.4 Issuance of invitations.**

From time to time, CCC will issue invitations to purchase or process agricultural commodities for utilization in the programs specified in section 1496.1 \* \* \*

6. Section 1496.5 is amended by revising paragraphs (a), (b)(5), and (f) to read as follows:

**§ 1496.5 Consideration of bids.**

(a) *Lowest landed cost.* The general principle of awarding contracts that will result in the lowest landed cost will prevail. Lowest landed cost will be calculated on the basis of U.S. flag rates and service for that portion of the commodities being provided that CCC determines necessary and practicable to meet cargo preference requirements and on an overall basis (foreign and U.S. flag) for the remaining portion of the commodities being furnished: *Provided*, That at least 50 percent of the processed, bagged, or fortified commodities procured under title II of Public Law 480 will first be allocated as between Great Lakes and non-Great Lakes ports on the basis of overall LLC. Notwithstanding the foregoing, the additional factors set forth in this section will be considered in awarded contracts.

(b) \* \* \*

(5) Available service will be analyzed to ensure that the port or coastal range selected for exportation has available ocean transportation service that will ensure compliance with cargo preference requirements with regard to the utilization of U.S. and other flag vessels to carry commodities shipped under programs covered by this regulation.

\* \* \* \* \*

(f) *Great Lakes ports.* (1) CCC shall not allocate to the Great Lakes port range, in any year, a percentage share of title II, Public Law 480 bagged, processed, or fortified commodities allocated under the lowest landed cost basis without regard to documentation of vessel that exceeds the percentage of such commodities received in 1984, as determined by the Secretary of Agriculture.

(2) CCC shall take such steps as are necessary and practicable, without detriment to any port range, to reallocate within the same calendar year any cargo to the Great Lakes port range that is diverted from such port range for shipment from another port

range in order to meet cargo preference requirements.

Signed at Washington, DC, on February 1, 1991.

Keith D. Bjerke,

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 91-3077 Filed 2-7-91; 8:45 am]

BILLING CODE 3410-05-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Chapter I

[Summary Notice No. PR-91-4]

#### Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for rulemaking received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before May 6, 1991.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

#### FOR FURTHER INFORMATION CONTACT

Ida Klepper, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9688.

This notice is published pursuant to paragraph (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 1, 1991.

Deborah E. Swank,

*Acting Manager, Program Management Staff, Office of the Chief Counsel.*

#### Petitions for Rulemaking

*Docket No.:* 26076.

*Petitioner:* Aircraft Owners and Pilots Association, Experimental Aircraft Association, Helicopter Association International, and National Association of State Aviation Officials.

*Regulations Affected:* 14 CFR 91.24(b).

*Description of Petition:* To amend § 91.24(b) to revise the Mode C transponder requirement for aircraft operating within a terminal control area (TCA) and in the airspace within 30 miles of a TCA primary airport (the Mode C veil) by excluding the airspace at and below 2,500 above the surface (AGL) from the boundary of the TCA primary airport's control zone outward to the 30-mile of the Mode C veil.

*Petitioner's Reason for the Request:* The petitioners believe that this would provide the means for general aviation aircraft to gain greater access to satellite airports and helicopters in many metropolitan areas currently restricted by Mode C requirements.

[FR Doc. 91-3010 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 91-ASO-3]

#### Proposed Revision of Control Zone, Tri-City, TN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to revise the Tri-City, TN Control Zone. This action would eliminate the arrival area extension southwest of the Tri-City Regional Airport. The arrival area extension was originally designed to afford controlled airspace protection for instrument flight rules (IFR) aircraft executing the nondirectional radio beacon (NDB) standard instrument approach procedure (SIAP) to runway 5.



Changes in this SIAP have eliminated the need for the arrival area extension. Additionally, a minor correction would be made in the latitude/longitude coordinate position of the Tri-City Regional Airport.

**DATES:** Comments must be received on or before: March 22, 1991.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO-530, Manager, System Management Branch, Docket No. 91-ASO-3, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763-7646.

**FOR FURTHER INFORMATION CONTACT:** James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 91-ASO-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

#### **The Proposal**

The FAA is considering an amendment to section 71.171 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Tri-City, TN Control Zone. This action would eliminate the arrival area extension southwest of the Tri-City Regional Airport. This extension is no longer required for airspace protection of IFR aircraft executing standard instrument approach procedures to Runway 5. Additionally, a minor correction would be made to the latitude/longitude coordinate position of the Tri-City Regional Airport. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### **List of Subjects in 14 CFR Part 71**

Aviation safety, Control zones.

#### **The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

#### **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

##### **§ 71.171 [Amended]**

2. Section 71.171 is amended as follows:

##### **Tri-City, TN [Revised]**

Within a 5-mile radius of Tri-City Regional Airport (lat. 36°28'30" N., long. 82°24'27" W.); within 2 miles each side of Tri-City ILS localizer northeast course, extending from the 5-mile radius zone to the OM. This zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in East Point, Georgia, on January 23, 1991.

**Don Cass,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 91-3007 Filed 2-7-91; 8:45 am]

**BILLING CODE 4910-13-M**

#### **14 CFR Part 75**

[Airspace Docket No. 90-ASO-24]

#### **Proposed Alteration of Jet Route J-151**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the description of Jet Route J-151 by extending the route from Vulcan, AL, to Cross City, FL. This extension would enhance the transition phase of flight from the high altitude to the low altitude airway structure over the Tallahassee, FL, very high frequency omnidirectional radio range. This action would reduce en route delays and reduce controller workload.

**DATES:** Comments must be received on or before March 21, 1991.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 90-ASO-24, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located



in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 90-ASO-24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### **Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

##### **The Proposal**

The FAA is considering an amendment to part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of Jet Route J-151 by extending that route from Vulcan, AL, via the NEEDY Intersection to Cross City, FL. The addition of this route segment would improve the traffic flow while in transition from the terminal area. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### **List of Subjects in 14 CFR Part 75**

Aviation safety, Jet routes.

##### **The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) as follows:

##### **PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES**

1. The authority citation for part 75 continues to read as follows:

**Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

##### **§ 75.100 [Amended]**

2. Section 75.100 is amended as follows:

##### **J-151 [Amended]**

By removing the words "From Vulcan, AL, via" and substituting the words "From Cross City, FL, INT Cross City 327°T(329°M) and Vulcan, AL, 136°T(134°M) radials; Vulcan;"

Issued in Washington, DC on January 30, 1991.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 91-30008 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-13-M

##### **Coast Guard**

##### **33 CFR Part 117**

[CGD8-90-29]

##### **Drawbridge Operation Regulations; Tickfaw River, LA**

**AGENCY:** U.S. Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the swing span bridge over the Tickfaw River, mile 7.2, on LA22 at Killian, Livingston Parish, Louisiana. The change would require the bridge to open only on the hour and half-hour to pass navigation from 7 a.m. to 11 p.m. This proposed regulation would be in addition to the present regulation which requires at least four hours notice for openings from 11 p.m. to 7 a.m. This proposal is being made because a petition was received by LDOTD from about 100 residents, camp owners, and boat owners that desire operation of the bridge on a regulated basis between 7 a.m. and 11 p.m. for the sake of local convenience.

**DATES:** Comments must be received on or before March 25, 1991.

**ADDRESSES:** Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

##### **SUPPLEMENTARY INFORMATION:**

Interested persons are invited to participate in this proposed rulemaking



by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

#### Drafting Information

The drafters of this notice are John Wachter, project officer, and LT J.A. Wilson, project attorney.

#### Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 5.0 feet above high water and 8.9 feet above low water. Navigation through the bridge consists of shrimp/fishing boats and recreational craft. Data submitted by LDOTD show that traffic through the bridge can be easily accommodated during the proposed regulated period. During a six-month period from May through October, 1990, vessel traffic through the bridge averaged about 1.4 openings per hour on weekends and holidays, and fewer than 0.3 openings per hour on weekdays.

The reason for this request is that local residents, camp owners, and boat owners requests regulated operation of the bridge for local convenience. The LDOTD recognizes that there may be an unusual occasion to open the bridge for an emergency or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur.

#### Federalism

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been demonstrated that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory

policies and procedures (44 FR 11034, February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the proposed regulation will not significantly delay any vessels. Since the impact is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.506 is revised to read as follows:

##### § 117.506 Tickfaw River

The draw of the S22 bridge, mile 7.2 at Killian, need open only on the hour and half-hour from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least four hours notice is given. The draw shall open on signal for an emergency or if a temporary surge in waterway traffic should occur.

Dated: January 21, 1991.

J.M. Loy,

Rear Admiral, U.S. Coast Guard Commander,  
Eighth Coast Guard District.

[FR Doc. 91-3094 Filed 2-7-91; 8:45 am]

BILLING CODE 4010-14-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Ch I

[AMS-FRL-3903-6]

#### Intent To Form an Advisory Committee To Negotiate Guidelines and Proposed Regulations Implementing Clean Fuels Provisions and Announcement of Public Meeting

**AGENCY:** Environmental Protection Agency [EPA].

**ACTION:** Notice of intent to form a negotiated rulemaking committee and announcement of public meeting.

**SUMMARY:** EPA is considering establishing one or two advisory committees to negotiate issues for the purpose of reaching a consensus in the development of proposed regulations under the clean fuels provisions of section 211 of the Clean Air Act (the Act) as amended by the Clean Air Act Amendments of 1990. Those regulations include requirements for reformulated gasoline under section 211(k), detergent additives under section 211(1), and labeling of oxygenated gasoline under section 211(m). A committee would also be used to negotiate guidelines for oxygenated fuel credit trading programs for inclusion in state implementation plans under section 211(m). Any negotiating committee would be created under the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act of 1990 (NRA), and would consist of representatives of the interests that will be significantly affected by the outcome of the rules or guidelines.

This notice describes the subject, scope and issues underlying the regulations and guidelines that would be negotiated. It also lists the interests that EPA believes will be significantly affected by the rules or guidelines and the persons or entities proposed to represent those interests in the negotiations.

EPA requests comments on (1) whether negotiations are appropriate and feasible for development of the proposed regulations and guidelines described, (2) whether EPA has identified the appropriate issues underlying the regulations and guidelines and the interests that will be significantly affected by them, and (3) whether the persons proposed for committee membership would adequately represent those interests. Any person or entity that believes its interests would not be adequately represented by any of those proposed



for committee membership may submit an application for membership or nomination of another person in accordance with the procedures described below.

EPA also announces that it will conduct a public meeting on the proposed use of negotiations for the regulations and guidelines. The meeting will explore the feasibility of negotiating the proposed rules and guidelines described and the issues that any committee would have to address. Any person interested in the negotiation of the proposed rules and guidelines is encouraged to attend.

**DATES:** EPA will conduct a public meeting concerning this notice on February 21 and 22, 1991 in Washington, DC. The meeting will be held from 10 a.m. to 5 p.m. on February 21 and from 9 a.m. to 1 p.m. on February 22. Comments on the issues raised by this notice and any applications or nominations for membership on the negotiating committee must be received by March 11, 1991.

**ADDRESSES:** The public hearing will be held at the Quality Hotel Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001.

Comments pertaining to the reformulated gasoline regulations should be submitted (in duplicate if possible) to Air Docket Section (LE131), EPA, Attention Docket #A-91-02, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to Carol Menninga, SDSB-12, EPA, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105.

Comments pertaining to oxygenated fuels-related issues should be submitted (in duplicate if possible) to Air Docket Section (LE131), EPA, Attention Docket #A-91-04, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to Alfonse Mannato, EN-397, EPA, 401 M Street, Washington, DC 20460.

Dockets #A-91-02 and #A-91-04 contain the materials relevant to this notice and may be inspected at room 1500M, 1st Floor, Waterside Mall, 401 M Street SW., Washington, DC between 8:30 a.m. and noon and 1:30 and 3:30 p.m. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For information pertaining to the establishment of the negotiation committee and associated administrative matters, contact: Chris Kirtz, Director, Regulatory Negotiation Project, Information and Regulatory System Division, EPA (PM-223Y), 401 M

Street, SW., Washington, DC 20460, (202) 382-7565.

For information pertaining to the reformulated gasoline regulation and underlying issues, contact: Carol Menninga at the address provided above or by phone, (313) 668-4575. For information pertaining to oxygenated fuels and underlying regulatory issues, contact: Alfonse Mannato at the address provided above or by phone, (202) 382-2640.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. EPA's Regulatory Negotiation Project**

EPA established the Regulatory Negotiation Project in 1983 to explore and demonstrate the value of negotiation and other consensus-building techniques for developing better regulations which could be implemented in a less adversarial setting.

Negotiations have been conducted through advisory committees chartered under FACA. The goal of each committee has been to reach consensus on the language or issues involved in a proposed rule. Where consensus has been reached, it has been used as the basis of the Agency's proposed rule. All procedural requirements of the Administrative Procedure Act and other applicable statutes have continued to apply. From its experience with regulatory negotiations, EPA has developed criteria for evaluation of potential items for negotiation. To qualify under EPA's selection criteria, an item must:

- Be planned for proposal;
- Have a relatively small number of identifiable parties, in an appropriate balance and mix, who have a good faith interest in negotiating;
- present a limited number of related issues, for which sufficient information is available for resolution; and
- Have a time factor that lends some urgency to reaching consensus.

The eight negotiations conducted to date have aided the Agency in better defining the issues and in crafting better approaches. Those regulatory negotiations were:

1. Nonconformance penalties under the Clean Air Act (CAA); Final Rule: August 30, 1985.
2. Emergency Pesticide Exemptions under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Final Rule: January 15, 1986.
3. Farmworker Protection Standards for Agricultural Pesticides under FIFRA; Proposed rule: July 8, 1988.
4. Asbestos Containing Materials in Schools under the Asbestos Hazard

Emergency Responsibility Act of 1986; Final Rule: October 30, 1987.

5. New Source Performance Standards for Woodburning Stoves under the CAA; Final Rule: February 26, 1988.

6. Underground Injection of Hazardous Waste under the Hazardous and Solid Waste Amendments of 1984; Final Rule: July 26, 1988.

7. Minor Permit Modifications under the Resource Conservation and Recovery Act; Final Rule: September 1988.

8. Control of Fugitive Emissions of Hazardous Air Pollutants for Equipment and Leaks; Agreement in Principle: December 1990.

In December 1987, the Program Evaluation Division of EPA's Office of Policy Planning and Evaluation completed an assessment of the regulatory negotiations program. The study confirmed that negotiation is especially appropriate in situations which involve the resolution of a limited number of related issues, none of which involve fundamental questions of value or extremely controversial national policy. The study further concluded that:

- Negotiated rules can produce rules that are more pragmatic with better environmental results while still meeting statutory requirements.
- Negotiated rules are also more likely to be acceptable to the affected industries, the public interest sector, and state and local governments involved in developing them.
- Negotiation may also result in earlier implementation of a rule by reducing the time it takes to proceed from proposed to final rulemaking.

EPA believes that the benefits to all parties of regulatory negotiation are substantial, and is committed to continued use of regulatory negotiation and other consensus-based processes for rulemaking when appropriate.

##### **II. The Negotiated Rulemaking Act of 1990**

Congress recently enacted the NRA to provide a framework for the conduct of negotiated rulemaking to encourage agencies to use the process when it enhances informal rulemaking. Modeled in large part on EPA's own regulatory negotiations approach, it provides that an agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule where the agency determines that use of the negotiated rulemaking procedure is in the public interest. In making that determination the agency is to consider, among other things, whether:



- There are a limited number of identifiable interests that will be significantly affected by the rule;
- There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who can adequately represent the interests identified and are willing to negotiate in good faith to reach a consensus on the proposed rule;
- There is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;
- The negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule; and
- The agency, consistent with the applicable law, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

The NRA authorizes the use of independent conveners to assist the agency in identifying the interests that will be significantly affected by a rule and in discussing with representatives of those interests issues of concern and whether negotiated rulemaking is feasible and appropriate for the particular rule. The conducer then reports his or her findings to the agency.

If, after considering a conducer's report or conducting its own assessment, the agency wants to proceed with negotiated rulemaking, it is to publish in the *Federal Register* a notice describing the subject and scope of the proposed rule the Agency intends to negotiate, the issues and interests involved, and the persons or entities that EPA proposes to include on the negotiated rulemaking committee. The purpose of the notice is to give members of the public a chance to comment on use of negotiated rulemaking for the proposed rule, the Agency's identification of the issues and interests involved, and the proposed membership of the committee. The NRA provides for a 30-day period during which the public may submit any comments and applications or nominations for membership on the committee. Today's notice fulfills this purpose and begins the 30-day comment period.

When an agency proposes use of negotiated rulemaking, it must make a final determination on whether it is feasible and appropriate to do so in light of any comments received. Notice of the agency's final decision is to be published in the *Federal Register* and sent to anyone applying for committee membership.

The procedures applicable to a negotiated rulemaking committee itself are described in a later section of this notice.

### III. Subject and Scope of Rules and Guidelines Proposed for Negotiation

The Clean Air Act Amendments of 1990 included a number of provisions designed to reduce the contribution of cars and trucks to air pollution. Many of the provisions apply to the cars and trucks themselves, requiring improvements in the vehicles' emission controls. Several provisions, by contrast, apply to the fuels used to run vehicles, including those on the road today. One requires use of cleaner, "reformulated" gasoline in certain ozone nonattainment areas. Another requires that all gasolines contain detergent additives to prevent deposits which degrade emission control performance. A third requires the use of gasoline containing at least 2.7 percent oxygen by weight in carbon monoxide nonattainment areas. EPA is here proposing that proposed regulations and guidelines implementing these clean fuels provisions be developed through negotiation.

#### A. Reformulated Gasoline

##### 1. Statutory Provisions

Section 211(k) of the Act as amended prohibits gasoline that EPA has not certified as reformulated from being sold to consumers in the nine large cities which experienced the worst ozone pollution during 1987 through 1989. Those cities are Baltimore, Chicago, Hartford, Houston, Los Angeles, Milwaukee, New York, Philadelphia and San Diego. Any other ozone nonattainment area may have the prohibition applied to gasoline sold within its borders at the request of the governor of the state in which it is located. Further, conventional gasoline sold elsewhere may not be more polluting than it was in 1990. The prohibitions take effect beginning January 1, 1995, although a later effective date may be provided in the case of opt-in areas under certain circumstances.

Section 211(k) requires EPA to promulgate regulations establishing requirements for reformulated gasoline within one year of the amendments' enactment, i.e., November 15, 1991. Those regulations must include the specifications and performance standards that gasoline must meet to be considered reformulated; a process for certifying gasolines as reformulated; a program for granting tradeable credits to fuel producers that certify reformulated gasoline that is less-polluting than

required; and provisions implementing the prohibition against sale of conventional gasoline that is dirtier than it was in 1990.

In general, section 211(k) provides that EPA's reformulated gasoline regulations "shall require the greatest reduction in emissions of ozone forming volatile organic compounds [VOCs] (during the high ozone season) and emissions of toxic air pollutants (during the entire year) achievable through the reformulation of conventional gasoline," taking into account costs, related health and environmental impacts and energy requirements. In particular, it requires that reformulated gasoline contain:

- At least 2.0 percent oxygen by weight, except as otherwise required by the Act or in the case of ozone nonattainment areas for which EPA has found that compliance with the requirement would prevent or interfere with attainment with a national ambient air quality standard;
  - No more than 1.0 percent benzene by volume;
  - No heavy metals, except for any metal other than lead for which EPA has found that addition of the metal will not increase toxic air emissions from vehicles; and
  - Deposit-preventing additives (required for both conventional and reformulated gasolines).
- Section 211(k) also requires that reformulated gasoline meet the following emission requirements:
- Nitrogen oxide (NO<sub>x</sub>) emissions that result from use of reformulated gasoline may not exceed the level of such emissions that result from use of a defined baseline gasoline (if this requirement in combination with the other requirements is technically infeasible, EPA may adjust or waive the other requirements as necessary); and
  - The aggregate mass emissions of VOCs and of toxics that result from use of reformulated gasoline must:

- Be 15 percent below the level of such emissions that result from use of the baseline gasoline; or
- Not exceed the level of such emissions that result from use of a gasoline meeting the content specifications listed above as well as having an aromatic hydrocarbon content of no more than 25 percent by volume, whichever achieves greater reductions. The required emission reductions for VOCs and toxics are to be determined separately.

The regulations are also to include procedures for certifying gasolines that meet the applicable requirements.



Section 211(k) provides that in response to a petition for certification, the agency is to certify a fuel formulation or slate of fuel formulations if such fuel or fuels comply with the content and emission performance requirements. In addition, the section requires that EPA's regulations include appropriate measures of, and methodologies for, ascertaining the emissions of air pollutants that result from use of particular fuels.

As noted earlier, section 211(k) permits other ozone nonattainment areas to opt into the reformulated gasoline program. It provides, however, that if EPA, after consulting with the Department of Energy, finds that there is insufficient domestic capacity to produce reformulated gasoline, it shall be rule extend the effective date of the program in opt-in areas for one year (and may, by rule, renew the extension for two additional one-year periods). Anyone may petition EPA for such a waiver, and the Agency must act on the petition within six months of receiving it.

Section 211(k) further requires that the regulations provide for tradeable credits to be granted for reformulated gasolines which contain more oxygen than required or contain less benzene or aromatic hydrocarbons than allowed. Credits may be used to demonstrate compliance with the reformulated gasoline requirements within the nonattainment area or areas in which they were generated. Section 211(k) provides, however, that credits cannot be granted to the extent that use of such credits would result in lower average levels of oxygen or higher average levels of aromatic hydrocarbons and benzene than the average level of those constituents that would occur in the absence of using such credits.

The regulations required by section 211(k) must also include anti-dumping rules applicable to all gasoline sold outside of covered areas. The anti-dumping rules are to ensure that gasoline (other than reformulated gasoline) sold by each refiner, blender and importer of gasoline does not result in average per gallon emission of VOCs, NO<sub>x</sub>, carbon monoxide (CO) and toxics in excess of such emissions attributable to gasoline sold by that refiner, blender or importer in 1990. (Any increase in NO<sub>x</sub> emissions caused by use of oxygenates nevertheless can be offset by reductions in VOC or CO emissions.) The section thus contemplates company-specific limits based on each company's 1990 gasoline. It provides, however, that if the Agency determines that no adequate and reliable data exists for a

company's 1990 gasoline, the baseline gasoline defined by the section shall be used in determining compliance with the anti-dumping rules.

#### 2. Anticipated Environmental Impact

EPA expects that the reformulated gasoline requirements will reduce mass VOC emissions from all gasoline vehicles in covered ozone nonattainment areas by at least 15 percent beginning in 1995. The ozone-forming potential of these VOC emissions, in turn, is expected to be reduced by somewhat more than 15 percent. The average reactivity of gasoline in the covered areas is expected to drop somewhat, as well, since reactivity reductions due to oxygenate addition and aromatics control are expected to exceed reactivity increases due to removal of butane and benzene.

Mass toxics emissions from gasoline vehicles in covered areas are projected to be reduced by 30 to 35 percent beginning in 1995. This is because EPA expects that the formula fuel will result in much greater toxic emissions reductions than the 15 percent reduction otherwise required by the section 211(k) and will therefore determine the toxic emissions performance standard applicable to reformulated gasoline. Cases of cancer associated with these types of toxic emissions are projected to be reduced by roughly 25 to 33 percent.

#### 3. Anticipated Economic Impact

To meet the oxygen content requirements for reformulated gasoline, domestic capacity to produce the oxygenate methyl-tertiary-butyl-ether (MTBE) could more than double by early 1994. EPA expects that 75 percent of this growth would likely occur in petrochemical plants using field butanes. Domestic capacity to produce ethanol, another oxygenate, could also double to meet the demands of the reformulate gasoline program and the oxygenated gasoline program (see next section for a description of that program).

Reformulated gasoline may cost four to five cents more per gallon than conventional gasoline. EPA believes that costs can be kept low by taking advantage of the flexibility that section 211(k) affords refiners, blenders and importers in complying with the reformulated gasoline requirements. For example, refiners can vary fuel formulations as long as they meet the content and emissions performance requirements, and they can earn credits for producing a less-polluting fuel than required and use those credits to certify a more-polluting fuel than allowed.

#### 4. Underlying Issues

EPA has identified the following issues to be resolved in developing the reformulated gasoline regulations:

a. While the composition of baseline summer gasoline is defined in section 211(k), the determinations of baseline winter gasoline is left to the Agency. What studies could and should be undertaken or used as a basis for determining the composition of baseline winter gasoline?

b. Section 211(k) defines baseline summer gasoline as having a Reid Vapor Pressure (RVP) level of 8.7 psi. However, summer RVP levels in Class B areas are expected to be 7.5 psi. Should the reformulated gasoline requirements take account of this difference in such a way as to ensure equivalent environmental benefits in all covered areas?

c. The emission performance of several gasolines must be determined to develop emission performance requirements. That is, the requirements applicable to reformulated gasoline and conventional gasoline as of 1995 depend on the emission performance of the summer and winter baseline fuels, the specified "formula" fuel, and the 1990 fuels of individual refiners, blenders and importers. May any of the relevant emission performance levels be estimated by modelling or must emission testing be performed?

d. What is the effect of various oxygenates on NO<sub>x</sub> emissions and what other fuel compositional changes can mitigate or eliminate this effect?

e. What vehicle emission test procedures are appropriate for certifying fuels?

f. Are sufficient data available to develop an emission model for certifying fuels without vehicle testing? If so, how many parameters must be included in the model? How should the model be updated in light of additional data that will become available in the future?

g. How should the term "slate of fuels" be defined for certification purposes? What is the significance of the use of this term?

h. What data are necessary and available for determining baseline emission limits for individual refiners, blenders and importers for purposes of the anti-dumping provisions of section 211(k). In cases where data are available on some but not all fuel parameters, must the baseline fuel parameters be used in their entirety or only those needed to fill the gaps not filled by the data?

i. What is the appropriate basis for granting credits—mass/volume (i.e., for oxygen and benzene contents) or



emissions performance (as would likely have to be the case for aromatics) or both?

j. If credits for oxygen content is based on emissions performance, would they be based on weight percent oxygen only or must a different credit amount be developed for each oxygenate?

k. What is the appropriate baseline for determining the amount of any credits earned—the requirements established by section 211(k) for benzene, oxygen and aromatics or the amount of those constituents in reformulated gasoline that would have occurred in the absence of a credit program?

l. Over what time period may credits be traded? Is banking of credits allowed?

m. What enforcement scheme will provide fuel producers the flexibility intended by Congress, while providing adequate assurance of compliance?

## B. Detergent Additives

### 1. Statutory Provisions

Section 211(l) provides that beginning January 1, 1995, no person may sell gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems. It further provides that EPA is to promulgate regulations establishing specifications for such additives within two years of the Amendments' enactment, i.e., November 15, 1992.

### 2. Underlying Issues

EPA believes that the major issue to be addressed in developing the proposed detergent additive regulations is the determination of performance standards for such additives.

## C. Oxygenated Gasoline

### 1. Statutory provisions

Section 211(m) of the Act as amended establishes a minimum oxygen content for gasoline sold in CO nonattainment areas with design values of 9.5 ppm or more. State implementation plans for such areas must be revised to require a minimum of 2.7 percent (by weight) oxygen content for gasoline sold during that portion of the year in which the area is prone to high ambient concentrations of CO.

The section further requires that EPA promulgate guidelines within nine months of the 1990 Amendments enactment (i.e., August 15, 1991) allowing the use of marketable gasoline oxygen credits that may be transferred within, but not between, nonattainment areas. Credits may be earned for exceeding the minimum oxygen content requirement and may be used to offset the sale or use of gasoline with a lower

oxygen content than required. In general, the requirement of a minimum gasoline oxygen content is to take effect no later than November 1, 1992.

Section 211(m) also establishes a fuel dispensing system labeling requirement, applicable to anyone selling oxygenated gasoline at the retail level. It requires that EPA issue regulations to implement this labeling requirement.

### 2. Anticipated Impacts

a. *Environmental:* The sale of oxygenated gasoline reduces motor vehicle emissions of CO, thereby helping CO nonattainment areas achieve compliance with the applicable CO ambient air quality standard.

Oxygenated gasoline is becoming a widely recognized control strategy for reducing carbon monoxide emissions from motor vehicles in a timely and cost-effective manner.

b. *Economic:* While EPA believes the price of oxygenated fuels may be a few cents per gallon more than non-oxygenated fuel, section 211(m) authorizes credit trading which should provide fuel producers with cost-saving flexibility in meeting the oxygen content requirement.

### 3. Underlying issues

EPA has identified the following issues for resolution in the development of the oxygenated gasoline credit trading guidelines and fuel dispensing system labelling regulations:

a. What are appropriate guidelines for state oxygen credits programs with regard to

- The structure of the program,
- The time period in which credits can be traded,
- The extent to which credits can be banked, if at all,
- Self-reporting and self-auditing requirements,
- State enforcement, and
- Auditing.

b. What should the fuel dispensing system labeling regulations require in terms of label content, location, and size?

## IV. Interests Significantly Affected by the Reformulated Gasoline, Detergent Additive and Oxygenated Gasoline Programs and Persons Proposed to Represent those Interests

With the assistance of two conveners, EPA has identified the following interests as those likely to be significantly affected by the reformulated gasoline, detergent additive or oxygenated gasoline programs:

a. Petroleum refiners and marketers:

b. Fuel ethanol producers and blenders;

c. The petrochemical industry; particularly ether (e.g., MTBE, tertiary-amyl-methyl-ether (TAME), and ethyl-tertiary-butyl-ether (ETBE) producers;

d. Motor vehicle manufacturers;

e. Environmental interest groups;

f. State and local air pollution control agencies and local government representatives; and

g. Other federal agencies, including the Department of Energy.

EPA proposes that the following persons or entities be named to negotiate the proposed regulations and guidelines if the Agency ultimately decides to proceed with the negotiations. These persons or entities have indicated their tentative willingness to participate: American Independent Refiners Association, American Petroleum Institute, Natural Resources Defense Council, Sierra Club, Citizens Action, State and Territorial Air Pollution Program Officials/ Association of Local Air Pollution Control Officials, Society of Independent Gasoline Marketers of America/National Association of Convenience Stores, U.S. Department of Energy, Renewable Fuels Association, Petroleum Marketers Association of America, National Petroleum Refiners Association, and the Oxygenated Fuels Association.

EPA is aware that none of the entities listed above represent the interests of motor vehicle manufacturers. The Agency is currently contacting a number of vehicle manufacturers and trade associations to ensure that automakers' interests would be adequately represented on the committee. EPA itself would be represented at the negotiations by senior officials of the Agency's Office of Mobile Sources.

## V. Selection as Potential Negotiation Candidates

EPA believes that the reformulated gasoline, detergent additive and oxygenated gasoline regulations and the oxygenated gasoline guidelines may be appropriate for development through negotiation. With the help of two independent conveners, EPA has made a preliminary inquiry of potential parties and representatives of identified interests to determine if the regulations and guidelines satisfy the applicable selection criteria for negotiation. On the basis of this inquiry, EPA believes that the regulations and guidelines meet the selection criteria and that negotiations can be successful. Affected interests are relatively small in number, and the convener's initial contacts indicate that



an appropriate balance and mix of groups will be willing to participate in good faith. The Agency also believes that a committee comprised of representatives of these groups could reach a consensus in time for EPA to issue proposed regulations for reformulated gasoline, detergent additives and oxygenated gasoline labeling in May of this year. EPA has adequate resources to devote to the negotiations, and it would use the consensus of the committee as the basis of the proposed reformulated gasoline, detergent additive and oxygenated gasoline labeling rules, and the oxygenated gasoline credit program guidelines to the maximum extent possible consistent with applicable law. In sum, EPA believes the regulations and guidelines described in this notice may be appropriate and feasible subjects for negotiation. The Agency requests comments on whether the applicable criteria for use of negotiated rulemaking are met.

#### VI. Formation of the Negotiating Committee

##### *A. Procedure for Establishing a Negotiated Rulemaking Committee*

Under the NRA, EPA must comply with FACA in establishing and administering a negotiated rulemaking committee, except as otherwise provided by the NRA itself. Under FACA, EPA can only establish an advisory committee if, after consultation with the Administrator of the General Services Administration (GSA), the Agency determines that establishment of the committee is in the public interest in connection with the performance of duties imposed on EPA by law. Timely notice of the Agency's determination must also be published in the *Federal Register*. Moreover, the advisory committee can meet or take action only after a charter describing its objectives, duties and duration has been filed by the Administrator of EPA with the congressional standing committees having legislative jurisdiction of EPA, and the Library of Congress.

EPA will prepare appropriate charters for negotiating committees for the reformulated gasoline, detergent additive and oxygenated gasoline regulations and oxygenated gasoline credit trading guidelines, and copies of the charters will be placed in the public docket. The Agency will also initiate the requisite consultation process.

As described earlier, the NRA requires EPA to publish this notice of intent to form a negotiating committee and provide a 30-day period during which comments and applications or

nominations for committee membership can be submitted. In light of the comments and applications or nominations received and after consultations with GSA, EPA will make a final determination as to whether to form one or more negotiating committees and, if so, what persons or entities will be members of the committee or committees. Notice of that final determination will be published in the *Federal Register*.

##### *B. Participants*

The NRA limits committees to 25 members unless the agency forming the committee finds that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership.

A previous section of this notice identified the interests that EPA believes will be significantly affected by the reformulated gasoline and oxygenated gasoline programs and the persons and entities proposed to represent those interests. One purpose of this notice is to solicit comments on whether the regulations and guidelines EPA is developing would substantially affect interests not identified or not adequately represented by the proposed participants. EPA does not believe that each potentially affected organization or individual must necessarily have its own representative. However, each interest must be adequately represented. Moreover, the committee as a whole must reflect a proper balance and mix of interests.

##### *C. Requests for Representation*

Any person who would be significantly affected by the proposed rules and guidelines discussed in this notice, and who believes that their interests will not be adequately represented by the persons or entities listed in section IV. of this notice, may apply for membership on the committee. In the alternative, such person may nominate another person for membership on the committee. An application for membership or nomination must include the following:

1. The name of the applicant or nominee, and a description of the interest(s) such person will represent,
2. Evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposes to represent,
3. A written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule or guideline under consideration, and
4. The reasons that the persons specified in section III do not adequately

represent the interests of the person submitting the application or nomination.

All applications or nominations are to be submitted to Chris Kirtz, Director, Regulatory Negotiation Project, Information and Regulatory Systems Division, Environmental Protection Agency (PM-223Y), 401 M Street SW., Washington, DC 20460. For information pertaining to the application or nomination process, contact Chris Kirtz at (202) 382-7565. Applications or nominations must be submitted on or before March 11, 1991.

EPA will give full consideration to all applications and nominations. The decision to add a person or entity to the Committee will be based on whether an interest of that person or entity will be significantly affected by the proposed rules or guidelines, whether such interest is already adequately represented on the Committee, and, if not, whether the applicant or nominee would adequately represent such interest. A copy of the Agency's notice announcing its decision on establishment of the committee and committee membership will be sent to everyone submitting an application for committee membership.

##### *D. Public Meeting on Establishing Committee*

As mentioned above, EPA will conduct a public meeting on establishing a negotiating committee for the reformulated gasoline and oxygenated gasoline programs. The purpose of the meeting is to provide an opportunity for an oral exchange of views about whether use of the negotiation process is appropriate and feasible for development of the programs' regulations and guidelines and what issues should or should not be addressed by any negotiating committee. The committee's membership and procedures for conduct of the committee's work will also be topics of the meeting. Everyone interested in the proposed negotiations is encouraged to attend.

##### *E. Tentative Schedule*

If EPA ultimately decides to establish the negotiating committee and its charter is approved, the Agency will publish a notice in the *Federal Register* announcing the committee's first meeting. It is expected that this meeting will be held in Washington, DC. At this meeting, participants will complete action on procedural matters, determine how best to address the principal issues, and begin to address them.



Subsequent meetings of the committee and any subcommittees would be held in Washington, DC, or in Ann Arbor, Michigan on a schedule to be determined by the committee. As required by FACA, EPA would publish timely notice of the meetings in the **Federal Register**. The meetings would be open to the public and interested persons would be permitted to file statements with the committee.

Due to the limited time allowed the Agency to promulgate regulations and guidelines, EPA intends that the meetings would occur every two to three weeks so that consensus may be reached as quickly as possible, in light of the Agency's intention to issue proposed reformulated gasoline and oxygenated fuels labeling regulations not later than May 31, 1991.

#### VII. Negotiation Procedures

The following procedures and guidelines will apply to the committee, if formed, unless they are modified as a result of comments received on this notice or during the negotiating process.

##### A. Facilitator

EPA will use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to chair negotiating sessions; help the negotiation process run smoothly; and help participants define and reach consensus.

##### B. Good Faith Negotiation

Committee participants must be willing to negotiate in good faith and be authorized by their respective organizations or interest groups to do so. Consequently, each entity included on the committee must designate a senior official to represent its interests.

##### C. Administrative Support and Meetings

EPA's Information and Regulatory System Division will supply logistical, administrative, and management support for the committee. To support the negotiations, EPA will make available technical support personnel and expertise which it has available to support the committee. Also to support the negotiations, the Agency has pledged funds to a resource pool which the National Institute for Dispute Resolution will administer. EPA expects that funds from private foundations may also be available. The committee may use the funds for activities such as training, technical support and any other assistance the committee deems useful. To the extent allowed by law, committee members will be free to determine the procedures under which

requests for funds will be made and approved.

##### D. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, committee members will determine the most appropriate procedures for committee meetings.

##### E. Defining Consensus

The goal of the negotiating process is to achieve consensus. In the negotiations completed to date, consensus has meant that each participant or interest concurs in the result. The NRA defines consensus as unanimous concurrence among the interests represented on the committee, unless the committee agrees to define consensus to mean a general but not unanimous concurrence or agrees upon another definition.

##### F. Failure of Committee to Reach Consensus

In the event the committee is unable to reach consensus in the time available for development of the reformulated gasoline and oxygenated gasoline proposed rules and the oxygenated gasoline credit trading guidelines, EPA will proceed with its own approach. Whether or not consensus is reached, the committee may choose to continue to meet after publication of the proposed rules for purposes of formulating recommendations regarding the proposals for the Agency's consideration. Committee meetings conducted after proposal would be open to the public, committee recommendations would be placed in the relevant rulemaking dockets, and the dockets would remain open for submission of responses to any recommendations made by the committee. However, while consensus positions developed prior to proposal would be the presumptive basis of the Agency's proposed rules, any recommendations formulated after proposal would not be the presumptive basis of the final rules. The Agency would consider such recommendations along with the public comments received in response to the proposed rules and the recommendations in making its decision on the final rules.

Parties to the negotiation may withdraw at any time. If this happens, the remaining committee members and the Agency will evaluate whether the committee should continue to exist.

##### G. Record of Meetings

In accordance with FACA and NRA, EPA will keep a record of all committee

meetings, including minutes of the meetings and any records, reports, working papers or other documents made available to or prepared by the committee for the meetings. This record will be placed in the public dockets identified above.

Dated: February 5, 1991.

J. Clarence Davies,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 91-3131 Filed 2-7-91; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[AD-FRL-3700-4]

#### Approval and Promulgation of Implementation Plans: Revision of the Visibility FIP for Arizona

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Proposed rule and announcement of public hearing.

**SUMMARY:** This proposal addresses the need for revising the Federal implementation plan (FIP) for the State of Arizona to include emission limits representing best available retrofit technology (BART) for the Navajo Generating Station (NGS) to remedy wintertime visibility impairment in the Grand Canyon National Park (Grand Canyon). This action is taken pursuant to sections 169A and 110(c) of the Clean Air Act (Act) which require EPA, upon default by a State, to take appropriate measures to remedy certified visibility impairments in mandatory Class I areas where the impairment is reasonably attributed to a specific source. On September 5, 1989, EPA preliminarily attributed a significant portion of wintertime impairment to the NGS (54 FR 36948). The timing of today's action is in accordance with a revised settlement agreement between EPA and the Environmental Defense Fund (EDF) in *EDF v. Reilly*, No. C82-6850 RPA (N. D. Cal.).

**DATES:** Comments on this notice of proposed rulemaking should be submitted to the Central Docket Section no later than April 19, 1991.

The EPA has received a written request for a public hearing on this action. A hearing has been scheduled for Monday, March 18, 1991, starting at 1 p.m. in the Maricopa County Auditorium, 201 West Jefferson, Phoenix, Arizona. Persons wishing to speak at the hearing should notify the Information Contact by March 11, 1991 at the address given below.



**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to Air Docket (LE-131), Attention: A-89-02A, U.S. EPA, rm. M1500 Waterside Mall, 401 M Street, SW., Washington, DC 20460.

**Docket:** Pursuant to section 307(d)(1)(B) of the Act, 42 U.S.C. 7607(d)(1)(B), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a docket for this notice, Docket Number A-89-02A. Materials related to the development of this notice have been placed in this docket. Materials related to EPA's preliminary attribution of a significant portion of the wintertime visibility impairment in the Grand Canyon to the NGS (54 FR 36948 (September 5, 1989)) have been placed in Docket A-89-02. For background information, materials related to the development of the visibility protection program (40 CFR 51.300 *et seq.*) are available in Docket A-79-40. Also, materials related to the development of the visibility new source review (NSR) and visibility monitoring strategies are available in Docket A-84-32. Materials related to the visibility long-term strategy, implementation of control strategy, and integral vista program are available in Docket A-85-26. All dockets are available for public inspection and copying between 8:30 a.m. to 12 noon and 1:30 p.m. to 3:30 p.m. Monday through Friday at EPA's Central Docket Section, Office of General Counsel, room 1500, 401 M Street, SW., Washington, DC. A reasonable fee may be charged for copies. Copies of this Notice, the Guidelines for Determining BART, the BART Analysis for NGS, the Regulatory Impact Analysis and Addendum, and copies of the comments provided by the Federal land manager (FLM), if any, are also available for public inspection at:

Department of Environmental Quality,  
Office of Air Quality, 3003 North  
Central Avenue, suite 1700, Phoenix,  
Arizona 85012.

Department of Environmental Quality,  
Northern Regional Office, 2501 North  
4th Street, suite 14, Flagstaff, Arizona  
86004.

City of Page Municipal Library, 697  
Vista Avenue, Page, Arizona 86040.

**FOR FURTHER INFORMATION CONTACT:**  
David H. Stonefield, U.S. Environmental  
Protection Agency, Office of Air Quality  
Planning and Standards, MD-15,  
Research Triangle Park, NC 27711, (919)  
541-5350 or FTS 629-5350.

## **SUPPLEMENTARY INFORMATION:** **Background**

### **A. Regulatory Requirements**

Section 169A of the Act, 42 U.S.C. 7491, sets as a national goal "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." Mandatory Class I Federal areas are certain national parks, wildernesses, and international parks as described in section 162(a) of the Act, 42 U.S.C. 7472(a). Section 169A requires that EPA promulgate regulations to assure reasonable progress toward meeting the national goal for mandatory Class I Federal areas where EPA has determined that visibility is an important value. On November 30, 1979, EPA identified 156 areas, including the Grand Canyon in Arizona where visibility is an important air quality related value (44 FR 69122). Section 169A specifically requires EPA to promulgate regulations requiring States to amend their State implementation plans (SIP's) to provide reasonable progress toward meeting the national goal for the 156 areas.

On December 2, 1980, EPA promulgated the required visibility regulations (45 FR 80084, codified at 40 CFR 51.300 *et seq.*). In broad outline, the visibility regulations require the 36 States listed in § 51.300(b), including Arizona, to: (1) Coordinate SIP development with the appropriate FLM's; (2) develop a program to assess and remedy visibility impairment from new and existing sources; (3) develop a long-term (10 to 15 years) strategy to assure reasonable progress toward the national goal; (4) develop a visibility monitoring strategy to collect information on visibility conditions; and (5) consider in all aspects of visibility protection any "integral vistas" (important views of landmarks or panoramas that extend outside of the boundaries of the Class I area identified by the FLM's as critical to the visitors' enjoyment of the Class I areas. The affected States were required to submit the revised SIP's satisfying these provisions by September 2, 1981. See 45 FR 80091, codified at 40 CFR 51.302(a)(1).

The second requirement listed above is of particular relevance to today's action. Pursuant to 40 CFR 51.302(c)(2), each affected State is required to include in its SIP such emission limitations, schedules of compliance, and other measures as may be necessary to make reasonable progress toward the national visibility goal. In addition, under 40 CFR 51.302(c)(1), an FLM may certify to a State that there

exists impairment of visibility in any mandatory Class I Federal area. Pursuant to 40 CFR 51.302(c)(4)(i), where impairment is certified at least 6 months prior to plan submission, an affected State must (1) identify each existing stationary facility which may "reasonably be anticipated to cause or contribute" to any such impairment which is "reasonably attributable to that existing stationary facility," and (2) analyze for BART any facility so identified. "Reasonably attributable" impairment is impairment "attributable by visual observations or any other technique the State seems appropriate" (40 CFR 51.301(s)). Where a State defaults on its obligations under the visibility regulations, EPA may act in place of the State pursuant to a FIP under section 110(c) of the Act, 42 U.S.C. 7410(c).<sup>1</sup> In such cases, all of the rights and duties that would otherwise fall to the State accrue instead to EPA. Thus, EPA may utilize attribution techniques it deems appropriate; must identify "reasonably attributable" sources of impairment; conduct BART analyses; adopt BART requirements; and may promulgate such other control strategies that EPA, in its discretion, deems necessary to make reasonable progress toward the national visibility goal.

The visibility regulations promulgated at 40 CFR 51.302(c)(4)(i) require that once impairment has been certified, a State (or EPA if the State's visibility protection program addressing BART has not been approved and EPA is acting in its place) must analyze for BART any specific existing stationary facility it identifies as a "reasonably attributable" source of the impairment. Pursuant to section 169A(b) of the Act (42 U.S.C. 7491(b)) and 40 CFR 51.302(c)(4)(iii), the emission limitation representing BART for fossil fuel-fired power plants with a generating capacity in excess of 750 megawatts (MW) must be determined pursuant to guidelines promulgated by the Administrator. This statutorily-required procedure for conducting a BART analysis is found in "Guidelines for Determining Best Available Retrofit Technology Analysis for Coal-Fired Power Plants and Other Stationary Facilities" (EPA-450/3-80-009b) (BART Guidelines).<sup>2</sup> A copy of

<sup>1</sup> Section 110(c) requires EPA to promulgate FIP's whenever a State fails to submit an implementation plan (or portion thereof) which meets the requirements of section 110; the Administrator determines that a plan (or portion) is not in accordance with the requirements of section 110; or the State fails to revise its plan within 60 days after notification by the Administrator in accordance with section 110(a)(2)(H).

<sup>2</sup> As discussed below the Agency is proposing in this rulemaking to make certain modifications to these Guidelines.



this document may be found in Docket A-89-02.

In December 1982, environmental groups, including EDF, filed a citizens' suit in the United States District Court for the Northern District of California alleging that EPA had failed to perform a nondiscretionary duty under section 110(c) of the Act, 42 U.S.C. 7410(c), to promulgate visibility FIP's for the 35 States<sup>3</sup> that, at that time, had failed to submit SIP's to EPA as called for by the 1980 visibility regulations, *EDF v. Reilly*, No. C826850 RPA (N. D. Cal.). The State of Arizona was one of the 35 States that failed to submit a revised SIP to EPA.

The EPA and the plaintiffs negotiated a settlement agreement for the remaining States which the court approved by order on April 20, 1984. For more information on details of the provisions of the settlement, including a schedule of actions by EPA, see EPA's announcement of the agreement at 49 FR 20647 (May 16, 1984).

#### B. Settlement Agreement

To remedy the States' failure to submit the necessary SIP revisions during the time specified by the regulations, the settlement agreement replaced the original regulatory deadlines for visibility SIP provisions with a rulemaking schedule agreed to by the parties and approved by the court. This schedule required EPA to review the existing SIP's to determine any deficiencies, allow the States to cure those deficiencies, and to promulgate FIP's on a specified schedule for those States that still did not submit visibility SIP revisions to EPA. Specifically, the first part of the agreement required EPA to promulgate FIP's which cover the monitoring and NSR provisions of 40 CFR 51.305 and 51.307. The EPA promulgated its monitoring strategy for 23 States and its NSR provisions for 21 States at 50 FR 28544 (July 12, 1985), 51 FR 5504 (February 1, 1986), and 51 FR 22937 (June 1986). In separate notices, EPA approved the SIP's of the other States with respect to monitoring and NSR.

The second part of the settlement agreement required EPA to determine the adequacy of the SIP's to meet the remaining provisions of the visibility regulations and gave the States until December 1986 to submit additional measures that would avoid the need for a FIP. These provisions are the general plan provisions, including BART and other implementation control strategies (§ 51.302), integral vista protection (§ 51.302-307), and long-term strategies

(§ 51.306). The settlement agreement required EPA to promulgate FIP's to remedy and deficiencies on a specified schedule.

Pursuant to 40 CFR 51.302(c)(1), on November 14, 1985, the Department of the Interior (DOI) certified the existence of visibility impairment in all Class I areas within its jurisdiction in the lower 48 States.

On January 23, 1986, EPA determined that the SIP's of 32 States (including Arizona) were deficient with respect to the remaining visibility provisions (51 FR 3046) and offered the States an opportunity to submit corrective SIP revisions. Thereafter, EPA and the plaintiffs negotiated revisions to the settlement agreement which extended the deadlines for State action or, if the States failed to respond, Federal action proposing FIP's to remedy these deficiencies. The court approved these revisions by its order of September 9, 1986.<sup>4</sup>

On March 24, 1986, the DOI sent letters to EPA which supplemented its earlier certification of visibility impairment. The letter addressed the Grand Canyon and identified the NGS, a coal-fired power plant located near Page, Arizona, as a probable source of impairment in this Class I area. A copy of this letter may be found in Docket A-89-02.

The affected States failed to submit visibility SIP revisions in response to the notice of deficiency. Consequently, in accordance with the revised settlement agreement, on March 12, 1987 (52 FR 7802), EPA proposed to disapprove the SIP's of 32 States, including Arizona, for failing to meet the remaining provisions of the visibility regulations, including general plan requirements (which in turn includes BART and other control strategies (§ 51.302) and long-term strategies (§ 51.306)). Also in accordance with the agreement, on November 24, 1987 (52 FR 45132), EPA took final action disapproving the affected SIP's, again including Arizona. The EPA promulgated, as FIP measures under section 110(c), general plan requirements and long-term strategies for these States. The EPA also determined that BART was unnecessary in 28 States because it could not reasonably attribute any part of the impairment to specific sources. In addition, under the revised agreement, EPA deferred until August 31, 1988 a decision regarding the need for BART or other control measures in the FIP's for the States of Arizona, Maine,

Minnesota, and Utah to address certified visibility impairments in seven Class I areas in these States which potentially could be reasonably attributed to a specific source pending acquisition and evaluation of additional monitoring information regarding the potential sources of impairment. The EPA required additional information to determine whether any part of the impairment in any of these Class I areas is "reasonably attributable" to an existing stationary facility, and to enable a BART analysis for any source so identified as causing or contributing to visibility impairment (40 CFR 51.302(c)(4)(i)).

Because EPA required information which was forthcoming but not available in time to meet the August 31, 1988 deadline, the Agency sought and received a second extension, until August 31, 1989, of the deadline for issuing a rulemaking proposal regarding the need for BART or other control measures to remedy visibility impairments in three of the remaining Class I areas (Moosehorn Wilderness, Grand Canyon National Park, and Canyonlands National Park). With regard to the impairment in the Grand Canyon, EPA delayed action in order to allow the National Park Service (NPS) time to analyze the data from a 1987 winter visibility attribution study, termed the Winter Haze Intensive Tracer Experiment (WHITEX), conducted in the Colorado Plateau where this Class I area is located. In the meantime, on May 19, 1989 (54 FR 21904), in accordance with the second revision to the settlement agreement, EPA promulgated decisions concerning certified visibility impairments in four of the seven Class I areas. Based on monitoring conducted in these areas, EPA found that no part of the visibility impairments were reasonably attributable to any specific source. Therefore, EPA determined that it was not necessary at that time to revise the FIP's for the States of Maine, Minnesota, and Arizona to include BART or other control strategies to remedy impairments in Roosevelt Campobello International Park (Canada), Voyageurs National Park (Minnesota), Saguaro Wilderness (Arizona), and Petrified Forest National Park (Arizona).

In April 1989, EPA received a draft report on WHITEX from the NPS. Because of the delay in receiving this report, EPA believed that it lacked sufficient time to complete all actions in determining whether impairment in the Grand Canyon was reasonably attributable to a specific source, conduct a BART analysis, and issue a proposal

<sup>3</sup> The State of Alaska had submitted a SIP which was approved on July 5, 1983 at 48 FR 30623.

<sup>4</sup> A copy of the settlement agreement and revisions is available in docket A-85-26 at the address given at the beginning of this notice.



regarding BART by the August 31, 1989 deadline. Accordingly, EPA and EDF filed a joint motion to revise the settlement agreement for a third time, which was approved by order of the court dated July 6, 1989. Under this revision, there was no change in the deadlines for proposed action regarding Canyonlands National Park or Moosehorn Wilderness. As to the Grand Canyon, the third revision to the settlement agreement divided EPA's duty into two parts. The EPA would proceed, on a preliminary basis, to issue a finding on reasonably attributable impairment by the August 31, 1989 deadline. However, if EPA did provisionally identify a specific source of impairment, it would solicit comments on that finding and would have additional time to conduct a BART analysis. The EPA was to issue a rulemaking proposal on the need for BART by February 1, 1990 unless, in response to comments, EPA rejected its proposed identification and instead determined that BART was unnecessary.

In accordance with the third revision to the settlement agreement, EPA published a notice of proposed rulemaking on September 5, 1989 (54 FR 36948). Regarding Moosehorn Wilderness, EPA identified a source of the certified impairment, but proposed that BART was unnecessary at this time because the impairment would be adequately remedied by the retirement of certain existing emission units and the addition of pollution controls on other units pursuant to a permit issued under the Act's prevention of significant deterioration provisions. As to Canyonlands National Park, EPA could not reasonably attribute the certified impairment to a specific source and so proposed that BART was unnecessary. On June 13, 1990 (55 FR 24060), EPA promulgated its decisions that BART at that time was not necessary to address impairment in either the Moosehorn Wilderness or the Canyonlands National Park.

Regarding the Grand Canyon, EPA preliminarily attributed a significant portion of wintertime visibility impairment to emissions from the NGS. The EPA reviewed the draft NPS report on WHITEX<sup>6</sup> and concurred with the findings of the NPS that NGS, located approximately 20 kilometers from the boundary of the Grand Canyon, is a substantial contributor to the wintertime visibility impairment. The EPA solicited comments on the merits of its

preliminary attribution finding. In addition, EPA discussed certain legal and regulatory issues relating to the BART process, as it might affect NGS, that had previously been raised by the Salt River Project (SRP) and Alabama Power Company, et al., and solicited comments on those issues.

In commenting on the September 5, 1989 notice, SRP and others renewed their earlier arguments on legal and regulatory issues. They also made new arguments alleging that they could not comment adequately on EPA's preliminary attribution finding because the NPS draft WHITEX report on which it was based was subject to change. All of the issues raised by SRP are addressed in detail in a later section of this notice. The EPA notices, however, that comment regarding the adequacy of the September 5, 1989 notice and the draft WHITEX report have been rendered moot by the fact that the NPS has now issued a final report on WHITEX<sup>6</sup> and by today's notice. This notice contains the complete statement of basis and purpose for a regulatory proposal required under section 307(d)(3) of the Act, and reopens the comment period on the issue of reasonably attributable impairment, as well as providing an opportunity to comment on all other issues relevant to this rulemaking.

On August 1, 1989, the SRP, et al., and Alabama Power Company, et al., intervenors in *EDF v. Reilly*, moved the court to modify the rulemaking schedule under the settlement agreement. In this motion, the intervenors challenged the court's jurisdiction to order EPA to conduct any rulemaking that might result in the installation of BART at NGS. The intervenors later filed a separate motion requesting a 1-year delay in the rulemaking schedule. By order dated November 22, 1989, the court denied the intervenors' motion challenging the court's jurisdiction. By order dated January 9, 1990, the court granted the intervenors' motion to extend the deadlines. This order set February 1, 1991 as the new deadline for EPA to propose whether or not to require BART emission limits for the NGS to remedy winter visibility impairment. The order also extended the deadline for final action on any proposal regarding BART until October 1991 (6 months after the close of the comment period).<sup>7</sup>

<sup>6</sup> Malm, et al., "The National Park Service Report on WHITEX Final Report" (December 4, 1989).

<sup>7</sup> EDF has appealed the extension of rulemaking deadlines in this case *EDF v. Reilly*, No. 90-15264 (9th Cir.). That appeal is pending.

The National Research Council of the National Academy of Sciences (NAS) has reviewed the scientific methods used in the WHITEX report and has issued a report. The qualitative assessment in the NAS report entitled "Haze in the Grand Canyon; An Evaluation of the Winter Haze Intensive Tracer Experiment" (October 1990) supports EPA's finding that, on some days, NGS contributes significantly to haze in the Grand Canyon. The NAS report has been placed in the rulemaking docket.<sup>8</sup> The report also finds that the data base and data analyses techniques in WHITEX alone were not sufficient to ascertain the quantitative NGS contribution to haze at any given time. The EPA solicits comment on both the relevance of the report to today's action and its contents.

Another study effort has been undertaken by SRP. This study is intended to measure the degree of contribution by the NGS to visibility impairment in the Grand Canyon during the 1989-1990 winter season. The EPA has received some preliminary results from this study and has placed them in Docket A-89-02A. However, EPA has not yet received final results of or a report on the study. If the final study results and report are submitted during the comment period of this action, and if EPA's review of the report indicates that the latest information would materially affect the proposed attribution decision which is the underlying basis for this rulemaking (including the emission limitations proposed herein), the EPA will reopen the public comment period to consider such additional information.

### C. Navajo Generating Station

The NGS is a 2250 MW coal-fired power plant located near Page, Arizona, approximately 20 kilometers from the northern boundary of the Grand Canyon. The NGS is a baseload generating station consisting of three 750 MW units which became operational between 1974 and 1976. The NGS is jointly owned by the U.S. Bureau of Reclamation, the SRP, the Los Angeles Department of Water and Power, the Arizona Public Service Company (APS), the Nevada Power Company, and the Tucson Gas and Electric Company. Existing pollution control equipment at NGS include electrostatic precipitators for particulate matter (PM) removal and specific burner design for nitrogen oxides (NO<sub>x</sub>) control.

<sup>8</sup> Additional copies of this report are available from the National Academy Press, 2101 Constitution Avenue NW., Washington, DC 20418.

<sup>5</sup> Malm, et al., "The National Park Service Report on WHITEX Draft Final Report" (April 7, 1989).



Potential adverse impacts to the environment, especially to air quality, have been of concern to citizens and State and Federal agencies since construction of the plant was first announced in the late 1960's. In April of 1970, the Secretary of the Interior expressed his concerns over potential environmental impacts of the NGS in a memorandum to the Assistant Secretary for Water and Power Development. Secretary Walter Hickel stated, "As you know, the Department is concerned with and is an outspoken advocate for protection and enhancement of the quality of our Nation's natural environment. The Grand Canyon area of the Colorado River is of particular concern to me. We must not allow anyone to pollute the environment there, and it would be unthinkable for us to pollute it ourselves." <sup>9</sup> On February 3, 1971, in a letter to EPA, the Arizona Division of Air Pollution Control expressed its concern about the impact of the power plant on visibility in the region and requested EPA to provide information on the impact of the NGS emissions on visibility. <sup>10</sup>

In response to these and other concerns, NGS issued a strong policy statement indicating that its NGS participants were committed to ensuring environmental protection. Furthermore, the NGS stated, "the plant will be designed so that additional control equipment, including devices for removal of oxides of sulfur, can be added when developed." <sup>11</sup> In the final environmental statement for the Navajo Project, NGS participants stated, "the participants have committed themselves to installing sulfur dioxide (SO<sub>2</sub>) removal systems on all three units at the Navajo Generating Station \* \* \*. It is planned that an SO<sub>2</sub> removal system will be installed and operative before \* \* \* May 1975." <sup>12</sup> Although most commitments made by NGS for installing SO<sub>2</sub> removal systems centered around complying with State or Federal ambient air quality standards, NGS acknowledged in the final environmental impact statement that operation of the plant could result in adverse visibility impacts. Furthermore, the NGS participants indicated that a goal of the participants in the Navajo

Project was to prevent such adverse impacts. <sup>13</sup>

In summary, all of the above citations indicate that the protection of visibility in the Colorado River Basin was of concern prior to construction of the NGS. Moreover, statements made by the NGS participants indicate a strong commitment to protecting the environment (including visibility). All of the above historical documents, including the draft and final environmental statements for the NGS, have been placed in Docket A-89-02.

#### Today's Action

The September 5, 1989 preliminary finding that a significant portion of wintertime impairment in the Grand Canyon was reasonably attributable to NGS was not based on any single analytical technique in the WHITEX report, but rather on the collection of techniques performed by the NPS using WHITEX and other data. All of the techniques used by the NPS support the conclusion that for most days which tracer data are available, NGS is a significant contributor to visibility impairment in the Grand Canyon during the winter months. The EPA has reviewed the NPS December 4, 1989 final report on WHITEX and the NAS evaluation of that report and finds no basis to reverse the Agency's preliminary finding that a significant portion of the visibility impairment in the Grand Canyon is reasonably attributable to NGS. The EPA solicits comments on the merits of today's proposed reasonable attribution finding. The EPA has reviewed comments by SRP and by others on the September 5, 1989 notice criticizing the draft WHITEX report and EPA's reliance on it in making a preliminary reasonable attribution finding. The EPA is seeking additional comment on this and related studies, but is not persuaded by these comments to reverse its preliminary finding at this juncture. The EPA will address in detail technical issues regarding the attribution question following receipt of comments on the final WHITEX report and NAS evaluation and will make a final attribution finding in conjunction with its final action on today's regulatory proposal.

In June of 1989, EPA began to gather preliminary information on the NGS that could be used in a BART analysis. An EPA contractor visited the power plant in order to compile site-specific data. Following publication of the September 5, 1989 notice preliminarily attributing

impairment in the Grand Canyon to NGS, a full-scale BART analysis was initiated. In accordance with the BART Guidelines (EPA-450/3-80-009b) <sup>14</sup> and 40 CFR 51.301(c), the analysis included consideration of the following: The costs of compliance, the energy and nonair quality environmental impacts, any existing pollution control technology in use at the facility, the remaining useful life of the source, and the degree of improvement in visibility anticipated to result from application of controls. A copy of the BART Guidelines may be found in Docket A-89-02A.

In order to evaluate its BART analysis approach, EPA considered the cost-benefit analysis conducted as a part of the preliminary Regulatory Impact Analysis (RIA) (as required by Executive Order 12291) for this rule. This analysis also satisfies the requirements of section 317 of the Act regarding economic impact assessments. A more detailed discussion of the benefits associated with improving visibility in the Grand Canyon is found in the "Benefit Analysis" section of this notice.

The BART Guidelines published in 1980 stated that the level of control necessary to meet the new source performance standard (NSPS) for power plants <sup>15</sup> is generally available to large power plants. <sup>16</sup> However, the guidelines do allow the State (or EPA in this case) to propose an emission limit other than NSPS if the limit proposed reflects a "reasonable balance of the various BART factors." <sup>17</sup> The BART Guidelines further state that, if the State (or EPA) set a BART limit equivalent to the NSPS level of control, no detailed analysis of the BART factors would be required. <sup>18</sup> In light of the Clean Air Act Amendments of 1990, EPA believes that the BART Guidelines are outdated in certain respects, and should be revised.

The 1990 Amendments embody certain statutory changes that represent a general congressional policy judgment to move away from rigid control technology requirements and towards an emphasis on air pollution control strategies that reflect flexibility and market-based incentives. In particular, section 403 of the Amendments revised section 111(a)(1) of the Act to repeal the percent reduction requirements under the NSPS program. Also, title IV of the

<sup>9</sup> Memorandum from Walter J. Hickel, Secretary of the Interior, to the Assistant Secretary of Water and Power Development, April 3, 1970.

<sup>10</sup> Letter from Arizona Division of Air Pollution Control to EPA, February 3, 1971.

<sup>11</sup> Policy statement by the participants in the NGS, 1971.

<sup>12</sup> Final environmental statement for the Navajo Project, page 31, February 4, 1972.

<sup>13</sup> *Ibid.* pg. 59.

<sup>14</sup> U.S. EPA "Guidelines for Determining Best Available Retrofit Technology Analysis for Coal-Fired Power Plants and Other Existing Stationary Facilities," November 1980.

<sup>15</sup> See 40 CFR part 60 subpart Da.

<sup>16</sup> BART Guidelines at 1.

<sup>17</sup> *Id.* at 20.

<sup>18</sup> *Id.* at 20-21.



amendments added an acid deposition control program, the essence of which is the use of market-based incentives (through freely tradable allowances under section 403 of the revised Act) to achieve the greatest reductions in SO<sub>2</sub> emissions at the least cost.

In light of these developments, and considering the statutory mandate in section 169A to consider the various BART factors of cost, energy effects and the degree of visibility improvement, EPA believes it would be inappropriate to base BART analyses on NSPS-level controls. In this case, EPA has conducted a thorough analysis of the statutory BART factors that is consistent with the existing Guidelines, rather than base its analysis on NSPS controls. The Agency believes that all future BART analyses should also carefully balance the statutory BART factors. Accordingly, by this notice EPA solicits comment on the BART Guidelines, and specifically on whether the BART Guidelines should be amended concurrently with this BART rulemaking. Based on those comments, EPA will decide at the time of final action on today's BART proposal for NGS whether to amend the Guidelines.

In addition, EPA notes that the value of marketable allowances under section 403 of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 will be made available to SRP should BART be installed. The EPA has factored the value of these allowances into its calculations of the cost of BART. The Agency believes that this is consistent with the estimation of BART costs under the BART Guidelines. However, EPA also solicits comments on whether the BART Guidelines should be revised as part of this rulemaking in order to consider the value of marketable allowances available under section 403 of the Act.

In today's action, EPA proposes to revise the FIP for Arizona to include this emission limit representing BART to address the visibility impairment observed in the Grand Canyon. Because of the uncertainty in determining the improvement in visibility expected as a result of reducing emissions at the NGS, EPA is considering and solicits comment on four options for BART at NGS:

1. A continuous SO<sub>2</sub> emission limitation of 0.30 pounds per million British Thermal Units (lbs/MMBtu). Compliance would be determined on a 30 day rolling average and would be phased in between 1995 and 1999.

2. A continuous SO<sub>2</sub> emission limitation of 0.50 lbs/MMBtu. Compliance would be determined on a 30 day rolling average and would be phased in between 1995 and 1999.

3. A continuous SO<sub>2</sub> emission limitation of 0.10 lbs/MMBtu. Compliance would be determined on a 30 day rolling average and would be phased in between 1995 and 1999.

4. SRP would test alternating control technologies and if one of the technology met a minimum removal efficiency at a set cost the NGS would install that technology and operate it in the winter time. If none of the technologies met the test criteria, NGS would reduce its emission by 70 percent (0.30 lbs/MMBtu emission limit) measured on an annual basis by the year 2000.

More details on these options are provided below. In addition, EPA solicits comments on whether another emission limitation may be more appropriate.

The EPA is proposing this first option of 0.30 lbs/MMBtu emission limit. That option includes a 30 day rolling average but EPA is requesting comment on whether a different averaging period may be more appropriate.

The EPA also invites comments on the legal and regulatory issues raised by SRP and others. These issues are identified and discussed in a later section.

A public hearing on this action will be on Monday, March 18, 1991 at 1 p.m. in the Maricopa County Auditorium, 201 West Jefferson, Phoenix, Arizona.

#### A. Discussion of Impairment

The DOI has documented the occurrence of visibility impairment at the Grand Canyon during winter (November–March) inversion conditions (see discussion at 52 FR 7802). This Park is a mandatory Class I Federal area located in the Colorado River area of the Colorado Plateau. The visibility impairment identified in this National Park during the winter months has been described as a haze "with a bright white layer and a distinct upper edge and it occasionally includes one or more perceptible layers."<sup>19</sup>

The WHITEX study, a 6-week study conducted in January and February 1987 in the Colorado River area, was designated to evaluate the ability of a variety of receptor modeling approaches to attribute all or a meaningful portion of the visibility impairment in several Class I areas. The NGS was chosen as the test candidate because (1) it had documented build up of haze layers around the facility, (2) it was the largest uncontrolled power plant in the Southwest, (3) it is located a few miles

from the Grand Canyon and near several other National Parks, and (4) it is a large isolated source. The WHITEX study was a cooperative effort between several utility groups including SRP—the operators of NGS—and several government agencies including NPS. The WHITEX study employed several attribution methodologies including the use of a unique tracer injected into the NGS stack to track the power plant's plume. A meteorological analysis was conducted to document the wind flow patterns and stagnation events occurring during the winter months.

The study area consisted of three major and nine surrounding monitoring sites. Major monitoring sites were located in the Grand Canyon (at Hopi Point), Canyonlands National Park, and Page, Arizona (near the Glen Canyon Dam). The surrounding sites were located in potential transport pathways in the study area. Extensive air quality monitoring was conducted at these sites to evaluate NGS' contribution to visibility impairment in the area.

The NPS calculated a light extinction budget for each of the three major sites based on optical and aerosol measurements taken simultaneously at each site. The light extinction budgets express the relative contribution to light extinction by various aerosol constituents (e.g., sulfates or organics) or the type of extinction observed (e.g., scattering or absorption). Light extinction, a standard measure of visibility impairment, is the combined effect of light scattering and absorption. The NPS found that scattering due to fine particle sulfates accounted for the largest share of anthropogenic visibility impairment during the WHITEX study period in the Grand Canyon.

The NPS then attributed the extinction (due to fine particle sulfates) to specific source(s) using various receptor modeling techniques. Both statistical methods and a deterministic model were used to estimate the relative contributions of sources within the study area to visibility impairment observed during the 6-week study. Other less quantitative techniques were also used to attribute the impairment observed to specific sources. An emissions analysis was conducted along with a meteorological analysis and analysis of the spatial patterns and temporal trends in ambient sulfate concentrations.

The NPS report on WHITEX concludes that NGS was the largest single contributor to visibility impairment in the Grand Canyon during the days for which tracer data were available. The analytical techniques

<sup>19</sup> Malm, et al., "The National Park Service Report on WHITEX Final Report," December 4, 1989, pg. 4.



conducted by the NPS indicate that under certain meteorological conditions which are common in the area during the winter months, large quantities of SO<sub>2</sub> and sulfate from NGS are transported into the Grand Canyon. The tracer analysis included measurement at Hopi Point (on the rim of the Grand Canyon) of the unique tracer, deuterated methane, which was injected into the NGS stack. An analysis of synoptic meteorology showed that the high sulfate episodes observed during the WHITEX study period were typical results of transport and transformation of pollutants during the wintertime.

The NPS analyzed extensively the data collected at Hopi Point during the three major sulfate episodes. All of the analytical techniques used by NPS suggest that NGS is a significant contributor to visibility impairment during the winter months in the Grand Canyon. The NPS data indicate that, for days tracer data are available, NGS contributes approximately 40 percent on the average to the observed wintertime visibility impairment and approximately 60-70 percent during the worst visibility impairment episodes. During some episodes, the NPS analysis identified copper smelters located in southern Arizona and Mexico as probable major contributors to visibility impairment. It is important to note that subsequent to the 1987 study timeframe, these sources have either been controlled to reduce emissions or shut down.

Using the draft NPS report on WHITEX as a basis, EPA, on September 5, 1989, proposed to find that NGS may reasonably be anticipated to cause or contribute to visibility impairment in the Grand Canyon during the winter months. A copy of the final report has been placed in Docket A-89-02. As required by section 169A of the Act, EPA conducted a BART analysis to determine if new emission limits were required to address this impairment. The results of the BART analysis are discussed later in this notice.

#### National Academy of Sciences Review of WHITEX

In early 1990, the National Research Council of the NAS established on the Committee on Haze in the National Parks and Wilderness Areas to address issues related to visibility degradation in these protected areas. The Committee was asked by the DOI to consider the relative importance of human-derived and natural emissions that contribute to visibility reduction in these locations and to evaluate possible source-control approaches. As part of its charge, the Committee was asked to evaluate the WHITEX report and its conclusion that

the NGS contributed to wintertime visibility impairment in the Grand Canyon. The Committee met at the Grand Canyon from March 28-31, 1990. The Committee issued its report on WHITEX on October 11, 1990, a copy of which is in the docket. On the basis of the data presented to the Committee in the NPS-WHITEX report, the Committee concluded that, at some times during the study period NGS contributed significantly to haze in the Grand Canyon. This finding supports EPA's proposed attribution decision. However, the Committee also concluded that WHITEX did not quantitatively determine the fraction of sulfate aerosol and resultant haze in the Grand Canyon that is attributable to NGS. The Committee cited problems with the tracer mass balance regression (TMBR) and differential mass balance (DMB) regression calculations which, in the Committee's judgment, prevent the quantification of NGS' contribution to haze due to sulfate at the Grand Canyon. The key deficiencies cited for TMBR were lack of tracers for other than NGS sources of sulfur, insufficient investigation of the covariance between NGS emissions and other sources, and limited evaluation of the conversion rate of SO<sub>2</sub> to sulfate. For DMB calculations, the Committee cited the lack of data below the rim of the canyon and that background measurements were not adequately incorporated into the data analyses, as well as the limited evaluation of the conversion rate.

For illustrative purposes, the Committee then used the WHITEX data in a simple technique to estimate the ranges of possible impacts from NGS. The actual impact of NGS on haze depends on a variety of factors including the rate of conversion of SO<sub>2</sub> to sulfate. The Committee concluded that if NGS emissions were controlled, then wintertime haze at the Grand Canyon would most likely be reduced, but not eliminated.

The NPS issued a technical response document to the NAS committee report on October 30, 1990. That document responds to the key points of the NAS report. The key issues of assessment of background sulfate measurements and analysis, measurements of sulfate below the rim of the canyon, and rates of conversion were addressed. The NPS response has been placed in Docket A-89-02A. The NPS points out that the NAS review did not fully consider supplemental techniques such as empirical orthogonal function analysis to TMBR and DMB which were in the WHITEX report. These supplemental analyses provided by NPS seek to

address the issue of other sulfur sources and support the reasonableness of the attribution range derived in WHITEX.

#### 1988 Visibility Follow-Up Study

The NPS has submitted a report to EPA presenting the preliminary findings of a follow-up visibility study conducted during the winter of 1988 (January 27-February 16) at Indian Gardens in the Grand Canyon. Visual examination of photographic data collected during the WHITEX study showed that haze built up within the canyon and only impacted the monitoring site (Indian Gardens) at Hopi Point after the mixing height had reached above the canyon rim. This prompted NPS researchers to locate a monitoring site for the 1988 study within the canyon to assess the concentration and estimate the origin of the aerosols within the canyon. The Indian Gardens site was located some 4,000 feet below the rim of the canyon.

Preliminary results of the study indicate much higher sulfate concentrations within the canyon than those collected on the rim during the WHITEX study. These results also show a strong relationship between total sulfur and selenium concentrations, suggesting that sulfur compounds in the canyon are a result of emissions from coal-fired sources. The WHITEX study showed that the NGS plume was rich in selenium. Finally, an examination of meteorology and photography data collected during the 1988 study indicate transport conditions similar to those documented for the highest WHITEX sulfate episode. The clouds are shown to roll in from the direction of Page, Arizona, and fill the canyon with haze. The NPS is continuing its analysis of data collected during this study.

Although the study conducted by the NPS in the winter of 1988 cannot be used to confirm the NPS analyses of the WHITEX data, the EPA believes that the preliminary findings of this study are consistent with those of WHITEX and generally support its previously proposed attribution decision and range of attribution used in the BART analysis. A copy of the preliminary report submitted to EPA by the NPS has been placed in Docket A-89-02A.

#### SRP Winter 1990 Visibility Study

In the winter of 1989-1990, SRP conducted its own monitoring study including release of tracer from NGS. Preliminary results of that study and subsequent data analysis were sent to EPA and NPS in September and December, 1990. Initial data analysis by SRP indicates that the overall contribution of NGS to haze at the



Grand Canyon during the study period was less than that computed from WHITEX data. All data and analyses received have been placed in Docket A-89-02A. However, preliminary data on episodic impairment levels and seasonal average data are substantially the same as ranges found in the WHITEX study that were used in the BART analysis. The EPA believes it is inappropriate to alter the conclusions reached in EPA's attribution finding given the preliminary and inconclusive nature of the SRP data. The EPA will consider all analyses and data provided during the comment period. As stated earlier, if EPA receives the final study results and report during the comment period and if EPA's review of the report indicates that the latest information would materially affect the proposed attribution decision, EPA will reopen the public comment period to consider such additional information.

#### **EPA's Position on the Ability to Determine NGS' Contribution to Visibility Impairment at the Grand Canyon**

The EPA reviewed the WHITEX report, the NAS report, NPS response to the report, and the preliminary data on the SRP 1990 tracer study. Based on this review, EPA has found no reason to change its determination that visibility impairment at the Grand Canyon can be attributed to NGS. Because of the uncertainty in the source-impairment relationship EPA is seeking additional comment on it. But for the purpose of this proposal, EPA continues to believe that a relationship can be reasonably made.

#### **B. BART Analysis**

The EPA conducted a BART analysis for the NGS pursuant to the procedures found in the BART Guidelines as required by section 169A(b) and the visibility regulations promulgated at 40 CFR 51.302(c)(4)(iii).<sup>20</sup> A copy of EPA's BART analysis for NGS has been placed in Docket A-89-02A. Considering the requirements found in this document, EPA divided the BART analysis into two major parts. In the first part, EPA identified the SO<sub>2</sub> emission controls that are readily available to the source, the costs of such controls, and other impacts of installing and operating the controls. In the second part of the BART analysis, EPA attempted to define the source-impairment relationship which was then used to predict the improvements in visual air quality that can reasonably be expected to occur as a result of

installing and operating the controls defined in the control technology analysis. Because EPA was faced with some uncertainties in each of the parts of the BART analysis, EPA bounded its results by giving low and high estimates.

In addition to the key areas discussed below, EPA was also required to consider the time, frequency, and duration of the visibility impairment episodes in the Grand Canyon. This proposal focuses on impairment observed during the winter season (between November 1 and March 31). Based on information from the WHITEX study and previous air quality monitoring, the visibility impairment episodes were determined to occur approximately 10 to 15 times throughout the winter months, generally lasting from 3-5 days. The NPS submitted information to EPA indicating that approximately 800,000 people visited the Grand Canyon during the winter of 1989. This figure represents about 21 percent of the total annual visitation to the park. Documentation for visitation rates to the Grand Canyon has been placed in Docket A-89-02.

#### **1. Control Technology Analysis**

As part of the BART analysis, EPA investigated the costs and other impacts associated with proven SO<sub>2</sub> removal systems at three levels different emissions limitations 0.50 lbs/MMBtu (approximately 50 percent control), 0.30 lbs/MMBtu (approximately 70 percent control), and 0.10 lbs/MMBtu (approximately 90 percent control). It was not the intent of the Agency to design an SO<sub>2</sub> control system for the NGS, but rather to evaluate the potential impacts to NGS of SO<sub>2</sub> control systems that have been used successfully in prior retrofit cases. Both wet and dry scrubbing technologies were evaluated in the control technology analysis. The EPA solicits comments on other available technologies which can reduce SO<sub>2</sub> emissions at NGS to achieve the proposed or alternative limits and which may require less capital investment and/or operating expenses than those technologies evaluated in the BART analysis.

The EPA used the Integrated Air Pollution Control System (IAPCS) cost model to predict the capital and operating cost estimates for the control systems analyzed.<sup>21</sup> This model was developed by EPA for the National Acid Precipitation Assessment Program and has been used to estimate SO<sub>2</sub> and NO<sub>x</sub> retrofit control costs for 200 power

plants. The case-specific input parameters were determined through documents obtained from the NGS information collected during the site visit by the EPA contractor and other government records. As mentioned previously, lower and upper bound limits were generated for each control option. The results from IAPCS indicated that wet flue gas desulfurization (FGD) achieving a 0.3 lbs/MMBtu emission limit for all three units is estimated to have total capital cost requirements of between \$245.9 million and \$402 million with total levelized annual costs (including amortized capital, interest, operating, and maintenance costs) estimated to be between \$91.9 million and \$128.3 million.<sup>22</sup> The levelized annual costs for 0.3 lbs/MMBtu wet FGD are less than those for lime spray drying or dry sorbent injection at the same emission rate. The wet FGD control option to meet a 0.10 lbs/MMBtu emission limitation is estimated to require a total capital investment of between \$275.7 million and \$453.2 million for all three units with total levelized annual costs estimated to be between \$103.5 million and \$145.2 million. A 0.5 lbs/MMBtu emission limitation met by a wet FGD control option is estimated to require a total capital investment of between \$213.3 million and \$357.0 million for all three units with total levelized annual costs estimated to be between \$79.5 million and \$112.2 million.

Using the costs generated by IAPCS, and the methodology originally used in the RIA for NGS, EPA estimated the increases in the average SRP's and Nevada Power Company's residential customers' electric utility bills if wet FGD were selected to decrease NGS SO<sub>2</sub> emissions to 0.30 lbs/MMBtu. This increase is expected to be no greater than 2.8 percent (about \$2.30 per month) for the SRP customer and no greater than about a 3.9 percent increase (again, approximately \$2.30 per month) for the Nevada Power Company customer. Because SRP and Nevada Power Company receive a higher percentage of their total system power from NGS than do other co-owners of NGS and have a lower average cost per kilowatt hour, these estimated 2.8 to 3.9 percent increases are expected to be the maximum percentage increase in power costs experienced by residential customers of NGS. These price increases would be lower for the 0.50 lbs/MMBtu control option. It is important to note that these estimates are based upon

<sup>20</sup> U.S. EPA, "Draft Report on Best Available Retrofit Technology (BART) Analysis for the Navajo Generating Station in Page, Arizona," January 1990.

<sup>21</sup> Integrated Air Pollution Control System Costing Program, Version 3.0, copyright PEI and Associates, Inc., 1989.

<sup>22</sup> All dollar amounts herein are measured in 1988 dollars.



increasing consumer costs by the percentage increase cost of producing the electricity. They do not consider that part of the consumer rates which include transmission costs; considering those costs could dampen the effect on the consumer. The actual increase to the average SRP or Nevada Power Company residential customer is expected to be somewhat less since the transmission costs are not affected by the BART requirements.

Other persons potentially affected by an increase in NGS power are customers of the Central Arizona Project (CAP). The CAP is an organization established by the U.S. Bureau of Reclamation to provide government-subsidized irrigation water to south central Arizona farmers. The CAP relies heavily on electricity from the NGS to pump and provide this water. It was estimated that if wet FGD were selected to decrease NGS SO<sub>2</sub> emissions to 0.30 lbs/MMBtu, the cost of water to users would increase approximately \$10 per acre foot or about 3 cents per 1,000 gallons. This increase in irrigation costs could raise the farmers' total variable costs by 2 percent to 4 percent per year. However, if, as expected, the CAP phases down its obligation to supplying water to the farmers, the increase in total variable costs would only be approximately 2 percent per year. Again, the cost increases would be lower for the 0.50 lbs/MMBtu control option. A more detailed discussion of these impacts may be found in the RIA and in factual memorandum <sup>23</sup> placed in Docket A-89-02A.

As a plausibility check for the costs generated by IAPCS, EPA requested information from the APS regarding the costs for FGD retrofit of units 4 and 5 at the Four Corners Power Plant located in Farmington, New Mexico. These units are similar to NGS in many respects including capacity and design, the burning of low sulfur coal, and the remote location of the plant. Information supplied by APS indicates that the capital investment for the wet FGD removal system (averaging 72 percent reduction in SO<sub>2</sub> emissions) at Four Corners Power Plant was \$119.8 million per unit. The IAPCS model generated costs for control at NGS ranging between \$82-\$134 per unit for the 0.30 lbs/MMBtu wet FGD control option. The EPA, therefore, concludes that the IAPCS model estimates are reasonable. A copy of the letter from APS has been placed in Docket A-89-02A.

Title IV (section 403) of the Clean Air Act Amendments of 1990 establishes a system of marketable sulfur emission allowances to help achieve the goal of reducing acid deposition. This provision does not waive any BART requirements for NGS. Nor does it require more controls than NGS currently has. However, the control cost incident with BART may be affected in part by NGS selling its excess emission reduction allowances. While the allowance system begins in 1995, western sulfur sources such as NGS are not included until 2000. The annual sulfur emission reductions at NGS due to the current proposed regulation could be offered for sale by NGS. The EPA estimates <sup>24</sup> the market value of sulfur reduction credits will be \$430/ton in 2000, increasing to \$590/ton in 2010. At an emission limit of 0.30 lbs/MMBtu, estimated total revenue for emission credits are \$21.4 million/year in 2000, increasing to \$29.4 million/year in 2010. Sale of emission credits would lower the estimated cost impacts on NGS during this period by 17 to 32 percent. The analysis of the acid deposition credit market, and analysis of the effect on NGS, have been placed in Docket A-89-02A.

In accordance with the procedures found in the BART Guidelines, the nonair quality environmental impacts of compliance were investigated. Impacts from increased water usage to operate SO<sub>2</sub> control systems, increased waste disposal, and effects of sludge from the SO<sub>2</sub> control system on ground or surface waters were examined in the BART analysis. Results from the BART analysis indicate that adequate space is available to dispose of additional wastes that would be generated by a control system. Also, the results show that the environmental effects of sludge disposal from the control system should present no increased threat to the environment beyond those currently being posed through fly-ash disposal. Finally, although SO<sub>2</sub> controls would require an increase in water usage, NGS is only utilizing approximately 68 percent of its water allotment. The remainder of its allotment should be adequate to operate a wet FGD or dry control system. In addition, water requirements for SO<sub>2</sub> controls can be reduced if as indicated in the environmental statement previously conducted for the NGS, the cooling tower blowdown water is utilized in the SO<sub>2</sub> control system.

## 2. Source-Impairment Relationship

One of the more complicated tasks in the BART analysis was defining the relationship between the SO<sub>2</sub> emissions at NGS and the visibility impairing sulfate (SO<sub>4</sub>) in the Grand Canyon. This relationship had to be addressed in order to estimate the degree of improvement in visibility that could be anticipated to result from the use of the alternative SO<sub>2</sub> control systems.

Because of the complex terrain in and around the Grand Canyon, the EPA visibility models that are often used to estimate improvements in visibility (e.g., PLUVUE II) were determined to be inadequate for this BART analysis. Based on conversations with EPA researchers and modeling experts,<sup>25</sup> the Agency decided to define this relationship using the ratio of SO<sub>2</sub> emissions at NGS to SO<sub>4</sub> in the Grand Canyon attributable to NGS as found in the final WHITEX report. Using this ratio, EPA then applied a linear rollback model. The NAS' Committee on Haze in National Parks and Wildernesses used the data in WHITEX and a series of mass-balance calculations on the basis of simple, but reasonable assumptions, to estimate the contribution of NGS on visibility impairment in the Grand Canyon during a haze episode. The Committee concluded that it could not confirm the WHITEX estimates because some measurements needed to confirm the assumptions were not made during WHITEX. The EPA believes that the NPS data from WHITEX and other monitoring coupled with assessment techniques that do not depend directly on mass-balance techniques provide adequate data concerning the NGS contribution of haze which could be used in the BART analysis. However, the uncertainties surrounding these analyses, as pointed out by the NAS committee on haze, requires that EPA consider a broad range of source-impairment relationships.

An important consideration in defining the source-impairment relationship was determining whether a proportional reduction in NGS SO<sub>2</sub> emissions would result in a proportional or less-than proportional reduction in visibility impairment in the Grand Canyon attributable to NGS. Potential nonlinearities resulting from condensation of additional nitrate aerosol once the NGS sulfate is controlled were investigated.

The case mentioned above addresses the nonlinearity that may exist when SO<sub>4</sub> is taken out of the atmosphere.

<sup>23</sup> Memorandum from Gwen Jacobs to David Stonefield dated January 30, 1991.

<sup>24</sup> ICF Resources, Inc., 1990, "Comparison of the Economic Impacts of the Acid Rain Program of Senate Bill (S. 1630) and the House Bill (H.R. 3030).

<sup>25</sup> Memorandum from Terry Clark, Atmospheric Research and Exposure Assessment Laboratory, to James Dicke, OAQPS, December 18, 1989.



Ammonia that would have combined with the SO<sub>2</sub> to form ammonium sulfate would now be free to combine with nitric acid to form ammonium nitrate, an efficient light scatterer. By comparing the light extinction reduction resulting from SO<sub>2</sub> reduction to the net light extinction reduction resulting from the combined effects of SO<sub>2</sub> reductions and nitrate increases, a nonlinearity factor can be developed and applied to the rollback model calculations. The average nonlinearity factor for the hours for which all necessary data are available from the WHITEX study is 0.10. In other words, the relationship is estimated to be 90 percent linear.

The results of the rollback model (with the average nonlinearity factor applied) were used to estimate the improvements in visibility that would result from SO<sub>2</sub> emission limits of 0.10 and 0.30 lbs/MMBtu at NGS. Because no single standard method exists for measuring improvements in visibility, the EPA employed two of the most widely used techniques to define the improvements in visibility expected to occur in the Grand Canyon.

One of the methods used to estimate the visibility improvements in the Grand Canyon was analyzing the changes in contrast expected to occur as a result of reducing SO<sub>2</sub> emissions at NGS. The EPA believes that this method is particularly relevant because human observers use contrast to make judgments of how color and atmospheric clarity changes with pollutant concentration. The contrast is defined as the percent difference between the brightness of a scenic element and its background.

Using the information obtained during the WHITEX study and extrapolating it to a period from November 1 through March 31 based on historic particle composition data (and applying the nonlinearity factor), a 0.10 lbs/MMBtu SO<sub>2</sub> emissions rate at NGS would result in a "perceptible" change in the visibility conditions (4 percent change in contrast) approximately 65 percent of the time (100 days) during the winter season, a "quite noticeable" change in visibility conditions (10 percent change in contrast) 39 percent of the time (58 days) during the winter, and a "very apparent" change in visibility conditions (20 percent change in contrast) 14 percent of the time (21 days) during the winter.

Similarly, if SO<sub>2</sub> emissions are reduced to 0.30 lbs/MMBtu, the following changes in winter visibility conditions are expected: A very apparent change in visibility conditions 4.5 percent of the time (7 days), a quite noticeable change in visibility

conditions 28 percent of the time (42 days), and a perceptible change in visibility conditions 58 percent of the time (88 days).

Finally, it is estimated that during an additional 29 percent of the time (44 days) during the winter months, there would be a "perceptible" (or greater) improvement in visibility with an SO<sub>2</sub> emission limit of 0.10 lbs/MMBtu as compared to 0.30 lbs/MMBtu. Documentation for these numbers, including assumptions and methodology, has been placed in Docket A-89-02A.

In addition to analyzing the changes in contrast in order to describe the improvement in visibility expected to occur as a result of controlling SO<sub>2</sub> emissions at NGS, the EPA also estimated the improvements in visual ranges expected to occur. Although this method is somewhat less desirable than analyzing contrast changes (because it is sometimes misunderstood by the layman), it is often used by scientists to measure visibility improvements. Table 1 contains the estimated improvements in visual ranges calculated for the maximum measured light extinction day and for an average day during the WHITEX study for the 0.10 lbs/MMBtu and 0.30 lbs/MMBtu control options using the results from the tracer mass-balance regression analysis performed by the NPS using the WHITEX data. As noted above, however, the uncertainty of these analyses, as pointed out by the NAS Committee on Haze, suggests that the actual effects of such emission reductions may be substantially different from these estimates (higher or lower).

TABLE 1.—ESTIMATES OF IMPROVEMENTS IN VISUAL RANGES WITH SO<sub>2</sub> CONTROL AT NGS

SO <sub>2</sub> emission limit (lbs/MMBtu)	Maximum light extinction day change in visual range	Average WHITEX day change in visual range
0.10	Increase from baseline of 150 km to 380 km.	Increase from baseline of 200 km to 229 km.
0.30	Increase from baseline of 150 km to 283 km.	Increase from baseline of 200 km to 222 km.

In addition to the wintertime in the Grand Canyon visibility impairment described above, it is believed that the control of SO<sub>2</sub> emissions at NGS may result in other visibility improvements. Although not specifically addressed in this rulemaking, EPA and NPS suspect that NGS emissions may contribute to visibility impairment in the Grand Canyon during other seasons of the

year. Thus, a significant decrease in SO<sub>2</sub> emissions at NGS may improve visibility in other months as well as during the winter months. Furthermore, a decrease in SO<sub>2</sub> emissions from NGS may improve visibility in other Class I areas in the Colorado Plateau. The EPA seeks comment on the potential visibility impairment from NGS in other than the winter season.

### C. Benefit Analysis

As stated previously in this notice, EPA was not required as a part of its BART analysis to estimate monetary benefits associated with improving visibility in the Grand Canyon. However, as a check of reasonableness for its approach, EPA evaluated and considered the benefit analysis developed as a part of the RIA.

Because of its size, unique rock formations, and sheer beauty, the Grand Canyon is considered by many to be one of our Nation's most prized national parks. Indeed, millions of people from the United States and all over the world travel to Arizona each year to view this national treasure. Placing a quantitative value on the protection of the beauty of the Grand Canyon is a formidable task. However, in conjunction with the BART analysis (and as part of the RIA), an attempt was made to identify some of the societal benefits related to the predicted improvements in wintertime visibility at the Grand Canyon due to reductions in sulfur emissions at NGS. The following paragraphs summarize the findings of the benefit analysis. A more detailed discussion of benefits may be found in the RIA developed for this rule. A copy of the draft RIA has been placed in Docket A-89-02A.

A key factor is assessing the benefits of visibility is understanding attitudes and preferences of individuals. Surveys<sup>26</sup> of visitors to the Grand Canyon indicate that the vast majority (over 80 percent) view clean, clear air as very important or extremely important to their recreational experience and indicate the viewing-related activities are particularly important at the Grand Canyon. This research also shows that visitors are aware of increasing haziness and that it is strongly correlated with decreased enjoyment of the site and with increasing dissatisfaction with air quality. Studies at recreational sites, including the Grand Canyon, indicate that visitors would plan to, and do, reduce the length of park visits and time at vista points as visibility conditions are degraded.

<sup>26</sup> National Park Service 1988, "Air Quality in the National Parks." Natural Resources report 88-1.



General citizen surveys provide further support. One survey<sup>27</sup> found that the vast majority of Americans felt there should be no air pollution that would "interfere with recreation and natural resources." Another citizen survey<sup>28</sup> found that 80 percent of households would definitely agree to having their tax money spent on preserving and managing park areas, even if they personally could not visit them, and another 17 percent would possibly do the same.

Several studies have attempted to measure in dollar terms societal values for varying degrees of visibility protection at the Grand Canyon.<sup>29, 30</sup> Because visibility is not bought or sold in a conventional marketplace, researchers have used various survey approaches known as the "contingent valuation method." This research has consistently shown the public's collective willingness to pay to protect visibility at the Grand Canyon is substantial.

The benefit analysis for this rulemaking interprets and transforms the existing economic research. Uncertainties arise in this interpretation and transformation process. Consequently, results are reported and should be interpreted as depicting the direction, character a general magnitude of the willingness-to-pay estimates. The benefit estimates developed here are based on the changes in visual range estimated by EPA in table I. However, given the uncertainties surrounding these analyses (as discussed above), changes in visual range could be substantially different than the change used in developing these willingness-to-pay estimates. In addition, these willingness-to-pay estimates are based on response elicited from contingent valuation studies that examined a substantial, year-round change in Grand Canyon visibility. While the analysis presented below attempted to adjust for differences between the contingent valuation studies and the specific visibility affects attributed to the Grand Canyon, there are important uncertainties with the willingness-to-pay estimates described below.

The benefit analysis for a 0.30 lb/MMBtu emission limit at NGS indicates in 1995 the average United States household would be willing to pay on the order of \$1.00 to \$1.90 per year per household. National total benefit estimates for 1995 range from \$100 to \$190 million. The annual benefits are expected to increase over time due to increasing population and income. The present value (using a 10 percent discount rate) of 30 years of benefits is \$1.6 to \$2.3 billion. Using a 3 percent discount rate, the present value of the benefits range from \$4.0 to \$5.5 billion.

The benefit analysis for a 0.10 lbs/MMBtu SO<sub>2</sub> emissions rate from NGS indicates in 1995 the average United States household would be willing to pay on the order of \$1.30 to \$2.50 per year per household. By this measure, national total benefit estimates for 1995 range from \$130 to \$250 million increasing over time due to growth in population and income. The present value, using a 10 percent discount rate, of 30 years of benefits is \$2.1 to \$3.1 billion. Using a 3 percent discount rate, the present value of the benefits range from \$5.3 to \$7.4 billion. The annualized benefits are \$220 to \$330 million. The benefits for a 0.50 lbs/MMBtu SO<sub>2</sub> emission rate would be substantially less than those calculated for 0.30 lbs/MMBtu.

A household's willingness-to-pay for visibility improvement at the Grand Canyon arises from three different motivations. Across all United States households, 31 percent of the total willingness to pay is an option price, or the desire for the household members to be able to enjoy good visibility during their own visits to the Grand Canyon now and in the future. Estimates based on willingness-to-pay surveys (McFarland, et al.,<sup>31</sup> Schulze, et al.<sup>32</sup>) of visitors to the Grand Canyon suggest substantially lower willingness-to-pay, however, than would be expected from the "option" value estimate used in this benefits analysis. About 38 percent is bequest value, or the desire for other people to enjoy good visibility now and in the future, and about 31 percent is existence value, or the desire to protect the Grand Canyon even if no one were to ever visit.

In September 1990, EPA received a draft report of a new benefits study on improving visibility in the Grand

Canyon. The report<sup>33</sup> details the methodology and results of a pilot contingent valuation willingness-to-pay study conducted on behalf of SRP in 1990. The draft report concludes that the benefits of reducing sulfur emissions from the NGS are substantially lower than those in EPA's draft RIA. The EPA's preliminary assessment of the SRP-sponsored draft report is that this conclusion results primarily from two factors. First, the SRP-sponsored draft report predicts visual range improvements which are much lower than EPA's estimates. Second, the SRP-sponsored draft report subjectively discards willingness-to-pay data for visual range improvement. The effect of the data adjustment is to lower the mean willingness-to-pay estimates by a factor of 20. A copy of the report was provided to EPA by SRP and has been placed in Docket A-89-02. By today's notice, the EPA solicits comments on this new information on benefits, as well as on the benefits analysis developed as part of the RIA.

#### D. Emission Limitations

Taking into consideration the uncertainties in the analyses, such as the attribution calculation and social benefits estimates, EPA is soliciting comments on four options and is proposing one of the options, (0.30 lbs/MMBtu emission limit). In addition the EPA solicits comment on, and will consider, any appropriate SO<sub>2</sub> emission limitation in its final determination of BART. The EPA is particularly interested in additional information that would show more precisely the range of visibility changes expected from changes in emissions from NGS, or better confirm the range used in the BART analysis as well as any quantitative information on the visibility improvements that could be expected in times other than winter, and in areas other than the Grand Canyon. Additional information on control alternatives and their costs as well as appropriate use of data on social benefit for improving visibility is also solicited. The proposed emission limitation is based on year-round control. However, EPA solicits comments on legal and policy issues relating to the use of seasonal controls instead. For a discussion of seasonal control, please refer to the section "Discussion of Seasonal Controls as a BART Emission

<sup>27</sup> Opinion Research Corporation 1981, "Public Attitudes Toward the Clean Air Act."

<sup>28</sup> Chestnut and Rowe, 1989, "Preservation Values for Visibility Protection at the National Parks," draft report to the U.S. Environmental Protection Agency.

<sup>29</sup> Schulze, Brookshie, Walther and Kelley, 1981, "The Benefits of Preserving Visibility in the National Parklands of the Southwest," Vol. VIII, Methods Development for Environmental Control Benefit Assessment, U.S. EPA.

<sup>30</sup> Rowe and Chestnut, 1983, "Valuing Environmental Commodities: Revised," Land Economics 59.

<sup>31</sup> MacFarland, K. W. Malm, and J. Molenaar. 1983. "An examination of methodologies and Social Indicators for Assessing the Value of Visibility," in Row and Chestnut (Eds.) Managing Air Quality and Scenic Resources at National Parks and Wilderness Areas Boulder, Colorado: Westview Press.

<sup>32</sup> Schulze op. cit.

<sup>33</sup> Development and Design of a Contingent Value Survey for Measuring the Public's Value for Visibility Improvements at the Grand Canyon National Park: Revised Draft Report, September 1990, Decision Focus, Inc.



Limitation" elsewhere in this notice. Consistent with the similar emission limitations implemented at other facilities over the past 10 years, EPA is proposing that compliance be determined on a 30-day rolling average. Nevertheless, EPA invites comments on other options for averaging times that could be used to determine compliance. Compliance with this limitation would be determined using continuous emission monitoring systems (CEMS).

Two other pollutants emitted by NGS,  $\text{NO}_x$  and PM, are known to contribute to visibility impairment in some circumstances.<sup>34</sup> The current emissions of  $\text{NO}_x$  and PM from NGS have not been identified as significantly contributing to the visibility impairment in the Grand Canyon. However, EPA is concerned based upon its technical judgment regarding the behavior of the pollutants as potential contributions to visibility impairment as a general matter, upon the amount of the pollutants emitted by NGS, upon the proximity of NGS to the Grand Canyon and upon the characteristics of the NGS plume shown by WHITEX and other studies, that increased emissions of these pollutants could result in impairment in the Grand Canyon. Although the NGS is not subject to any  $\text{NO}_x$  emission limitations, SRP has stated that NGS currently emits  $\text{NO}_x$  at a rate of 0.4 to 0.5 lbs/MMBtu. Therefore, EPA is proposing an  $\text{NO}_x$  emission limit consistent with NGS's existing emission rate, as well as the rate at other similar plants, of 0.5 lbs/MMBtu. As with the  $\text{SO}_2$  emission limit, compliance would be determined using CEMS.

Particulate matter emissions for the NGS are currently limited in two ways. The Arizona SIP has both an emission rate limitation of 0.06 lbs/MMBtu and an opacity limit of 40 percent for NGS. The SRP has stated that NGS currently emits PM at a rate of 0.03 lbs/MMBtu with an opacity of between 10 and 15 percent. Thus, the opacity limit of 40 percent is well above the NGS existing emissions. Therefore, EPA is proposing a 20 percent opacity limitation consistent with current NGS emissions opacity in order to preclude any visibility deterioration that would be caused by an increase in PM emissions. Compliance would also be determined using CEMS. In conjunction with the proposed BART limits for  $\text{SO}_2$  emissions, these emission limitations for  $\text{NO}_x$  and PM should result in reasonable progress toward the national visibility goal. The EPA solicits comments on whether these emission limitations are

appropriate to remedy existing impairment or to prevent future impairment.

#### *E. Emission Limitation Compliance Schedule*

Section 169A requires BART to be applied "as expeditiously as practicable, but in no event later than 5 years after the date of approval." However, the operators of NGS may be able to develop in the next few years technologies capable of meeting the same stringent BART limitation proposed today at costs substantially lower than those we have assumed using currently demonstrated technologies. Given that, EPA proposes the required emission limitation to be achieved in three phases. The final BART emission limitation would need to be met on one unit by January 1, 1995; on two units by January 1, 1997; and on all three units by January 1, 1999. This flexibility would allow the operators ample time to install, test, and evaluate innovative technologies in meeting the emission limitations.

The EPA is also considering allowing the operators the option of averaging the needed emission reductions across all three units during each milestone of the phase-in period. This would allow, if the 0.30 lbs/MMBtu emission limitation is selected as BART for example, 25 percent emission reductions at two units and 20 percent reductions at the third unit by 1995 rather than achieving the 0.30 lbs/MMBtu limit by 1995 at just one unit. This would provide greater flexibility in study and design of new control approaches than a strict unit-by-unit requirement. The EPA is aware that this approach will raise questions regarding regulatory intent for installation of BART. Under this approach, BART would begin before the 5-year requirement and controls would be installed on all three units within an average of 5 years.

The EPA solicits comments on whether it is legally permissible and, in the final analysis, appropriate from a policy perspective to rely on the date of controls on the first unit or the average date of controls on all units in complying with the timing requirements of the statute. In addition, EPA solicits comments on the averaging of the phase-in across units in order to provide the maximum flexibility in evaluating alternative control technologies.

#### **Proposal From Salt River Project**

On January 10, 1991, EPA received a proposal from representatives of SRP as an alternative to BART. The proposal addresses a broader scope of issues, including the contribution that NGS

makes to the existing regional haze problem in the desert southwest region, which includes many Class I areas including the Grand Canyon, Canyonlands, Bryce Canyon, Petrified Forest, Zion, and other national parks and wilderness areas. The proposal has four components: (1) SRP help fund and cooperate fully with the regional haze studies that EPA is required to conduct under the new section 169B of the Act; (2) EPA would expedite establishment of the Grand Canyon Visibility Transport Commission, and SRP would cooperate with the governors of the affected States and the Commission in conduct of its inquiry and mandated report to the Administrator on appropriate action to address regional haze; (3) SRP would undertake tests to try to demonstrate the feasibility of several promising clean coal technologies that may provide much lower cost alternatives to conventional scrubbers or current dry technologies on plants fired by low sulfur western coal (if one of the technologies were demonstrated to achieve an agreed-upon minimum removal efficiency at an agreed-upon cost, SRP would commit to install that technology and operate it on a seasonal basis to address the alleged effect of NGS on wintertime visibility.); and (4) SRP would agree that if none of the technologies met the test criteria, it would then install pollution control devices that would remove at least 70 percent of the uncontrolled  $\text{SO}_2$  emissions (emission limit of 0.30 lbs/MMBtu) measured on an annual basis by January 1, 2000, the year upon which the first allowances would be issued to the plant under the 1990 Amendments. A copy of the letter containing the full explanation of this offer is in Docket A-89-02A. EPA is requesting public comment on how this proposal, legally and technically, may fulfill section 169A, as well as the provisions of section 169B. With respect to this proposal, EPA has concerns about the delay in application of controls so far beyond any interpretation of the 5-year statutory requirement. In addition, EPA requests comment on the proposal's usefulness in addressing new legislative requirements on EPA to conduct regional haze studies and on the role of cooperation with industry in addressing regional haze through the Grand Canyon Visibility Transport Commission.

#### **Legal and Regulatory Issues**

On May 15, 1989, the SRP submitted comments on various legal and regulatory issues pertaining to potential BART emission limits affecting NGS. In addition, SRP and Alabama Power

<sup>34</sup> See, e.g., BART Guidelines at 12-13.



Company, et al., a consortium of utility groups (referred to collectively in this section as "SRP"), have submitted various motions to the court in *EDF v. Reilly* seeking to modify and delay the settlement agreement governing this rulemaking. The EPA addressed these issues and solicited comment on them in the September 5, 1989 notice. See 54 FR 36951-52. The EPA's earlier discussion is incorporated by reference as part of today's statement of basis and purpose. In comments on the September 5, 1989 notice, and in further pleadings in *EDF v. Reilly*, SRP and Alabama Power Company, et al., have continued to press these issues and to raise new ones. Similar views were also presented by other commenters on the September 5, 1989 notice. By its order of November 22, 1989, the court rejected all of SRP's arguments insofar as they sought to prevent EPA from proceeding with this rulemaking pursuant to the court's jurisdiction to oversee BART rulemaking under a FIP. The effect of that decision is to refer SRP's arguments to the rulemaking process and, ultimately, a decision by the Court of Appeals should SRP seek review of final rulemaking action by EPA under section 307(b) of the Act. For the benefit of comments on today's proposal, these issues are identified below, and EPA has set forth again its present position on these issues. The EPA will take a final position on all of these issues in response to comments on today's notice.

#### A. Scope of the Current Visibility Regulations

The SRP asserts that regulation of haze that cannot be attributed to a source through visual observation, but only through analytical techniques such as those used in WHITEX, is beyond the scope of EPA's current visibility regulations. The EPA disagrees with this contention. The current regulations focus on impairment due to discrete, discernible plumes attributable to a source through visual observation, but they are not limited to the type of visibility impairment known as "plume blight." Rather, as to BART, the visibility rules regulate any impairment that is "reasonably attributable" to an existing stationary facility (see, e.g., 40 CFR 51.302(c)(4)(i)). While such "reasonably attributable" impairment may be in the form of a haze, this is still distinguishable from impairment in the form of "regional haze" that is beyond the scope of EPA's current regulations because it cannot be attributed, in whole or significant part, to a single source or small group of sources.

#### B. Attribution Techniques

The SRP also claims that the visibility regulations prohibit EPA from basing a finding of reasonable attribution on the WHITEX study, asserting that sophisticated attribution techniques are beyond the scope of the 1980 visibility regulations. The EPA disagrees with this interpretation. While the 1990 regulations do not require the use of techniques other than visual observation, they do not prohibit them either.

The SRP also asserts that if sophisticated techniques are permissible at all, their use is limited to the States. The SRP points to 40 CFR 51.302(s) which defines "reasonably attributable" as "attributable by visual observation or any other techniques the State deems appropriate." In SRP's view, the rules on their face authorize only States and not EPA to use techniques other than visual observation to make a reasonable attribution decision. The EPA disagrees with this view. The part 51 visibility regulations, including the definition in question, contain numerous references to the duties of "States" in the SIP planning process for the obvious reason that those regulations' principal purpose is to set forth the requirements that SIP's must meet to comply with the regulations. In this instance, however, Arizona has defaulted on its responsibility as it has failed to submit a visibility SIP or any portion thereof despite EPA's notice of deficiency, and EPA has disapproved the SIP for such failure. Consequently, EPA has an obligation under section 110(c)(1) of the Act to promulgate such visibility measures as may be necessary to fulfill the requirements of the visibility regulations at 40 CFR 51.300, *et seq.* In so doing, EPA stands in the shoes of the defaulting State, and all of the rights and duties that would otherwise fall to the State accrue instead to EPA. Thus, in this instance, EPA is in effect acting as a "State" and may utilize any attribution technique it deems appropriate, not just visual observation. Moreover, there is no inherent reason why EPA should be limited to visual observation when it acts under section 110(c) if a State is not so limited in developing a SIP. Similarly, 40 CFR 51.302(c)(4)(i) provides that the "State" must identify and analyze for BART any source as to which a reasonable attribution finding is made. Nevertheless, where EPA is acting in place of the "State" under section 110(c), these duties, as well as all other duties of "States" under the part 51 visibility regulations, fall to EPA. In this case, EPA is acting in the place of Arizona. The EPA has found that the Arizona SIP

is deficient for failing to meet the requirements of 40 CFR 51.302, including reasonable attribution and BART requirements, and has disapproved the SIP for that failure (51 FR 3046, 3048 (January 23, 1986); 52 FR 45132, 45133). The EPA believes that its position represents a reasonable interpretation of the Act and its own regulations and is fully in keeping with the language, goals, and purposes of the Act and those regulations. However, in the September 5, 1989 notice, EPA solicited comments on whether it would be appropriate to make changes in the definitional provisions of 40 CFR part 51 in order to provide additional clarification on EPA's interpretation that the Administrator, like a "State," may utilize whatever techniques he deems appropriate in making any "reasonably attributable" findings in promulgating a plan under section 110(c) of the Act. By today's notice, EPA again solicits comments on this issue. Upon the close of the comment period that commences today, EPA may proceed to make clarifying changes without further public notice.

#### C. Attribution of Impairment to a Significant Contributor

Section 169A(b)(2)(A) of the Act, 42 U.S.C. 7491(b)(2)(A), requires that emission limitations representing BART be established for an existing source which emits any air pollutant which may "reasonable be anticipated to cause or contribute to any impairment of visibility in any [Class I] area." The EPA regulations further refine this statutory requirement by limiting BART to cases of reasonably-anticipated impairment "where the impairment is 'reasonably attributable' to the source." 40 CFR 51.302(c)(4)(i). The SRP argues that a finding of reasonable attribution cannot be made unless one source (or a small group of sources) is the sole contributor to visibility impairment. In support of this view, SRP states that control of one source would result in significant improvement in visibility only if the impairment was being caused by that source alone, whereas if many sources are contributing, all must be controlled to result in improved visibility. The EPA disagrees because SRP's position appears to contravene the legal requirement flowing from the statute and regulation that BART be installed whenever a source may reasonably be anticipated to either cause or "contribute" to "any impairment" in "any" Class I area where the impairment is "reasonably attributable" to that source. In addition, EPA preliminarily believes that SRP's position is flawed logically and assumes



key facts that the WHITEX data indicate are untrue or which are contravened by EPA's BART analysis. Specifically, if NGS is a significant contributor to wintertime impairment in the Grand Canyon, notwithstanding that other sources may also contribute to the impairment, it follows that the addition of emissions controls at NGS alone may result in significant improvement in visibility. In addition, as discussed above, the WHITEX data indicate that NGS is, in fact, a significant contributor to wintertime impairment in the Grand Canyon. In its review of WHITEX, NAS likewise refuted SRP's reasoning when NAS concluded that if NGS were controlled then the wintertime haze of the Grand Canyon would likely be reduced. Thus, in today's notice, EPA has proposed to determine that the impairment in question may be reasonably attributable to NGS. In addition, today's notice reflects that EPA's BART analysis has concluded that control of NGS alone is likely to result in a significant improvement in visibility. Although EPA is seeking additional comment on these studies and is prepared to analyze any additional data that is submitted, it believes that these findings and interpretations are adequate to proceed at this time with its proposal of BART emission limits under the present visibility regulations to remedy this impairment. The EPA specifically solicits comments on its view that it is appropriate under the current visibility rules to impose BART limits on a source which is a significant contributor to but not the sole source of a visibility impairment in a Class I area when that impairment may also be due in part to undifferentiated regional sources.

#### *D. EPA's Present Authority To Conduct a BART Rulemaking*

The SRP and Alabama Power Company, et al., assert that, with respect to visibility impairment in the Grand Canyon, EPA has no present authority to conduct a BART analysis or propose or promulgate emissions limitations representing BART because there has been no valid certification of impairment, because there has been no finding of substantial inadequacy as to Grand Canyon impairments and subsequent failure by Arizona to remedy such inadequacy, and because the Administrator has not made a final reasonable attribution decision. The EPA disagrees with these assertions because they seriously misread the applicable statutory and regulatory requirements.

Regarding the certification of impairment, EPA believes that the DOI

letters of November 14, 1985 and March 24, 1986 discussed above satisfy the certification requirements of the regulations because they represent the considered views of responsible DOI officials, and Arizona was given notice of them by the January 1986 notice of deficiency and March 1987 proposed SIP disapproval prior to EPA's disapproval of the Arizona SIP for failing to submit remedial measures in response.

Regarding the purported need to afford Arizona another opportunity to perform its own BART analysis, there is likewise no basis for such a requirement because Arizona has clearly defaulted on its obligations, and EPA must provide a complete visibility plan, including measures to remedy Grand Canyon impairment. Specifically, the prerequisites for remedial action by EPA to promulgate appropriate FIP measures under all of the subsections of section 110(c)(1) of the Act have already been met, although satisfying only one is adequate. As explained above, Arizona failed completely to submit any visibility SIP provisions, thereby satisfying the prerequisite in section 110(c)(1)(A). Moreover, EPA, in January 1986, issued a notice of SIP deficiency meeting the requirements of section 110(a)(2)(A) and afforded Arizona an opportunity to submit corrective measures. Arizona failed to submit the required plan revision to correct this inadequacy and so EPA satisfied the prerequisite in section 110(c)(1)(A).<sup>35</sup> There was no need to specifically identify Grand Canyon impairment in that notice because the State had been properly informed that the SIP as a whole was inadequate to remedy impairment which DOI certified as existing in all Class I areas within the State. In addition, EPA's proposed SIP disapproval in March 1987 specifically alerted Arizona to the presence of wintertime impairment in the Grand Canyon and the need for corrective action. See 52 FR 17804, 17806. Also, in November 1987, EPA disapproved Arizona's SIP for failure to provide remedial visibility SIP measures, thereby satisfying the prerequisite in section 110(c)(1)(B). Finally, in letters submitted to the docket for this rulemaking, the State of Arizona has stated its agreement that EPA, and not the State, should proceed to address BART to remedy Grand Canyon

impairment without a further specific opportunity for rulemaking by the State. Clearly, under these circumstances, it would serve no purpose to take the additional steps suggested by SRP as both the letter and spirit of section 110(c)(1) have been satisfied.<sup>36</sup>

<sup>35</sup> On November 15, 1990, President Bush signed into law the Clean Air Act Amendments of 1990, Public Law 101-549. While the Amendments revised the Act in several areas, they do not include any changes that materially affect either prior FIP actions regarding Arizona or this rulemaking. In particular, section 102(h) of the Amendments revised the language and organization of section 110(c)(1) of the Act, but did not affect the standards for a default in Arizona's SIP planning obligations or EPA's FIP obligations arising from such failure in any material way. Section 101(c) of the Amendments added a savings clause as section 110(n)(1) of the revised Act that preserves implementation plan provisions already promulgated by the Administrator, including those portions of the Arizona FIP that have already been promulgated. A companion provision, section 108(l) of the Amendments, added a savings clause as section 193 of the revised Act that preserves every regulation, standard rule, notice, order and guidance promulgated or issued by the Administrator, except as otherwise provided by or inconsistent with the Amendments, or revised by the Administrator. Section 108(j) of the Amendments adds a new section 302(y) to the revised Act that defines "federal implementation plan" in pertinent part to mean a plan or portion thereof promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a SIP, and which includes enforceable emission limitations. Section 816 of the Amendments added a new section 169B of the revised Act that calls upon EPA to study and possibly adopt a regulatory program to address the problem of regional haze in Class I areas.

Taken together, the FIP and savings clause provisions constitute an "anti-backsliding" approach by Congress, and do not affect any pre-existing actions of EPA, except to the extent that new or revised substantive provisions call into question the validity of those actions. Thus, prior visibility FIP actions affecting Arizona, in particular, Arizona's default with respect to its BART obligation and EPA's assumption of that obligation, remain in place. With respect to outstanding FIP obligations, there is no indication that Congress intended to disturb such obligations except where the Amendments alter the underlying SIP planning obligations in a manner that evinces congressional intent to reinstitute State primacy. Thus, for example, a court has relieved EPA of a pre-existing obligation to promulgate a FIP to meet the ozone NAAQS in Southern California, because the Amendments granted States additional time to develop their own attainment plans for ozone. See *Coalition for Clean Air v. EPA*, (C.D. Cal., Order granting motion to vacate settlement agreement, Jan. 9, 1991) ("the structure of the amended Act, with revamped criteria and timing for SIPs, and with an obvious policy that the States are encouraged to take the lead, with the potential FIP to be the stick that drives them, is clear"). In contrast, with respect to this rulemaking, Congress took no action to suggest that it intended to alter either the substance or timing of the requirement to apply BART to sources that may reasonably be anticipated to cause or contribute to visibility impairment in Class I areas where, as here, EPA acts under its present regulations addressing impairment that can be "reasonably attributed" to a source. In particular, the regional haze provisions of section 169B do not affect the present action regarding "reasonably

Continued

<sup>36</sup> Prior to the revisions to section 110(c)(1) enacted by section 102(h) of the Clean Air Act Amendments of 1990, Public Law 101-549 (November 15, 1990), the failure of a State to make a required submission in response to a Notice of SIP inadequacy under section 110(a)(2)(H) was set forth in a separate subsection, 110(c)(1)(C), that has now been merged in to subsection 110(c)(1)(A).



Regarding the purported need for a "final" attribution determination before proceeding to a BART analysis, there is no support in the regulations for the notion that EPA must proceed in this fashion. Indeed, 40 CFR 51.302(c)(4) speaks of a single requirement to "identify and analyze for BART." In its order of July 6, 1989, the court in *EDF v. Reilly* granted the EPA's and EDF's joint request that EPA be given a short additional time to conduct a BART analysis and issue a proposal on the need for BART (this time was further extended at SRP's request by the court's order of January 9, 1990), but the regulations do not suggest that it is necessary to formalize EPA's voluntary bifurcation of a single decision and make a "final" determination on the first portion before proceeding to the second. Nor is it necessary to proceed in the fashion these commenters suggest in order to satisfy the rulemaking requirements of the Act of the Administrative Procedure Act because neither a "proposed" nor a "final" reasonable attribution determination is a promulgated regulation or other "final action" within the meaning of those statutes and is not subject to judicial review. Rather, it is a preliminary finding that may lead to a final rule or other final action (i.e., a final decision that emission limitations representing BART are unnecessary, or the imposition of such limitations) that is subject to review.

#### *E. Discussion of Seasonal Controls as a BART Emission Limitation*

In a letter dated January 14, 1990, SRP submitted a position paper to EPA raising the issue of whether EPA could lawfully provide for the seasonal application of pollution control technology in establishing BART. SRP's letter takes the position that the law allows seasonal controls in this case. For the reasons summarized below, EPA believes that at this time seasonal controls are not appropriate under the circumstances of this rulemaking. However, EPA solicits comments on (1) the appropriate use of seasonal controls as BART; and (2) whether, if seasonal controls may be allowed, the record of this rulemaking would support imposition of only seasonal controls at NGS.

In considering whether EPA's traditional interpretation of other

attributable" visibility impairment under section 169A and 40 CFR part 51, subpart P, and there are no other new or revised substantive provisions that would relieve EPA of its obligation to complete this FIP action. Thus, EPA's obligation to complete this BART rulemaking remains in place.

provisions of the Clean Air Act regarding emission limitations applies with equal force to BART EPA believes the following relevant statutory provisions and legislative history should be weighed. BART is defined by the Act as "emission limitations" which "reflect" the best available retrofit "technology." See sections 169A(b) and (g)(2), 42 U.S.C. 7491(b) and (g)(2). The regulations likewise refer to BART as "emission limitations" and as an "emission standard." 40 CFR 51.302(c)(2)(iii) and 51.302(c)(4)(ii). The Act defines "emission limitation" and "emission standard" to require "continuous" emission reduction. Section 302(k), 42 U.S.C. 7602(k). The EPA regulations explicitly require "continuous emission reduction" in any BART emission limitation. 40 CFR 51.301(c). In addition, section 123(a) provides that "[t]he degree of emission limitation required for control of any air pollutant under this title shall not be affected in any manner by \* \* \* any \* \* \* dispersion technique," while section 123(b) defines dispersion technique to include "any intermittent or supplement control of air pollutants varying with atmospheric conditions." 42 U.S.C. 7423.

The language eventually enacted as section 123 originated in the House version of the 1977 Amendments. The House committee report defines dispersion techniques as "techniques which seek to reduce concentrations of pollutants not by reducing the amounts of pollutants emitted into the air, but rather by relying on the dispersion of pollution throughout the atmosphere."<sup>37</sup> (emphasis added).

Although the central focus of the congressional deliberations was on tall stacks and short-term adjustments in the amount of emissions from a source in order to meet SIP limits designed to achieve the national ambient air quality standards. EPA requests comments on the extent to which those concerns also apply to seasonal controls and BART emission limitations, which were not explicitly considered in this legislative history. The House committee report lists several "fundamental policy objections" to intermittent controls or dispersion techniques that may be relevant to this rulemaking, including dubious reliability, concern over effects of secondary pollutants, transport of pollutants to other areas, acid rain effects, and simple prudence. See H.R. Rep. No. 294 at 82-88. Language nearly identical in pertinent part to the

language eventually enacted in section 302(k) appears in both the House and Senate bills. In explaining the purpose of this language, the House committee report states:

By defining the terms "emission limitation," "emission standard," and "standard of performance," the committee has made clear that constant or continuous means of reducing emissions must be used to meet these requirements. By the same token, intermittent or supplemental controls or other temporary, periodic or limited systems of control would not be permitted as a final means of compliance.<sup>38</sup>

The Senate committee report elucidates its reason for defining "emission limitation" as follows: "This bill includes a definition of the phrase 'emission limitations' to clarify the committee's view that the only acceptable basic strategy is one based on continuous emission control. Intermittent controls or dispersion techniques are unacceptable as a substitute for continuous control of pollutants under this act."<sup>39</sup>

The Senate committee report parallels the House committee report in its statement of reasons for disfavoring intermittent control strategies. The Senate committee report adds that "continuous emission reduction measures are available, they are reliable, and they are economically justified."<sup>40</sup>

SRP's letter focuses exclusively on section 123 in asserting that seasonal controls are permissible as BART, and does not address section 302(k) or the legislative history noted above. In addition, SRP characterizes BART as exclusively directed toward "ambient objectives," citing instances in which EPA has allowed seasonal relaxations in SIP rules intended to achieve national ambient air quality standards.<sup>41</sup> In doing so, SRP assumes that the prior experience regarding SIPs that it cites should govern here. EPA requests comment on SRP's contention that BART is strictly an ambient-based limit. In this regard, commenters should consider EPA's experience under other technology-based standards.

First, the language and structure of the BART requirement appear to delineate it as a technology-based standard. Second,

<sup>38</sup> Id. at 92.

<sup>39</sup> S. Rep. No. 127, 95th Cong., 1st Sess. 94 (1977).

<sup>40</sup> Id. at 95.

<sup>41</sup> EPA notes that none of the examples cited by SRP involve technology-based standards under the Act. In addition, it is not clear that these cases involved "emission limitations" under section 110(a)(2)(B) as that term of art is defined in section 302(k), as opposed to other measures under section 110(a)(2)(b).

<sup>37</sup> H. R. Rep. No. 294, 95th Cong., 1st Sess. At 81 (1977).



the overall legislative scheme embodied in the visibility planning requirements of section 169A draw a distinction between the general requirement in section 169A(b)(2) to adopt SIPs that include "such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress," and the explicit requirement in section 169A(b)(2)(A) to employ BART as one such visibility measure.

Congress appeared to follow a similar pattern regarding the PSD and NSPS programs. For example, Congress adopted the PSD program to protect against actual or potential adverse effects from pollutants emitted to the ambient air by requiring states to adopt SIPs containing a host of emission limitations and other measures to achieve the goal of preventing significant deterioration of air quality. See sections 160(1) and 161, 42 U.S.C. 7470(1) and 7471. However, as one such specific PSD measure, Congress required major new or stationary sources to employ a technology-based emission limit—the best achievable control technology. See sections 165(a)(4), 169(3), 42 U.S.C. 7475(a)(4), 7479(3). Similarly, under the NSPS program, EPA must publish a list of categories of stationary sources that cause or contribute to air pollution which may endanger public welfare, but Congress required EPA to address these source categories contributing to ambient pollution problems through the technology-based new source performance standards. Compare section 111(b)(1)(A), 42 U.S.C. 7411(b)(1)(A), with section 111(a)(1), 42 U.S.C. 7411(a)(1). The EPA solicits comment on the use of seasonal controls in this BART rulemaking.

Should EPA decide that facts allow seasonal controls and that the statutory language and legislative history precludes seasonal controls, a possible statutory basis for a seasonal variance would be the procedures contained in the BART exemption provisions of section 169A(c) (2) and (3), and 40 CFR 51.303. The statute explicitly addresses the possibility of BART exemptions for large power plants such as NGS but establishes a very high hurdle for granting any such exemption. It requires the source owner or operator to demonstrate to the satisfaction of the Administrator "that such powerplant is located at such distance from all [Class I areas] that such powerplant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to a significant impairment of visibility in any such

area." It further requires the concurrence of the appropriate FLM's. Thus, if such a variance or exemption could be allowed, the burden would be upon SRP and/or its co-owners to make the necessary demonstration. Because there would be no need for a BART exemption until such time as final BART emission limits are established, any such request for exemption should be submitted after completion of the BART rulemaking in the form of a request for partial (i.e., seasonal) relief from any final BART limits that might be established as a result of this rulemaking. See 40 CFR 51.303. Under the exemption regulations, in order to demonstrate no "significant impairment," i.e., the absence of "a level of impairment that interferes with the visitor's visual experience of the area," the owner or operator "should address the frequency, extent, time, intensity and duration of the impairment." See 45 FR 80084, 80087. Thus, the factual basis for such a demonstration with respect to this case would be a showing that NGS does not contribute to any significant impairment in any Class I area in seasons other than winter. In this regard, SRP contends that the record demonstrates that summer impairment at Grand Canyon is not attributable to NGS (SRP has not to date addressed potential impacts of NGS at other Class I areas in the vicinity, such as Bryce Canyon National Park, Zion National Park, and Canyonlands National Park). The limited information in the record at this time, however, suggests the contrary.<sup>42 43 44</sup> As stated earlier, EPA and NPS suspect that emissions from NGS may contribute to regional visibility impairment during the entire year and that a decrease in SO<sub>2</sub> emissions from NGS may improve regional visibility in many Class I areas in the Colorado Plateau. The EPA solicits comments on whether a seasonal variance could be allowed under section 169A(c) in the manner discussed above or under some other statutory authority, on whether such a variance could be considered only after completion of this rulemaking, and (in the event that EPA concludes it would be appropriate to consider a seasonal variance in conjunction with the present proceeding) on the factual question of whether NGS contributes to any

significant impairment in any Class I area.

#### *F. The Adequacy of the September 5, 1989 Notice*

The SRP asserts that the September 5, 1989 notice was inadequate to meet the requirements set forth in section 307(d)(3) of the Act for a statement of basis and purpose to accompany a notice of proposed rulemaking. The EPA agrees. However, as explained above, comments regarding the adequacy of the September 5, 1989 notice and the draft WHITEX report have been rendered moot by the fact that the NPS has now issued a final NPS report on WHITEX and by today's notice. This notice contains the complete statement of basis and purpose for a regulatory proposal required under section 307(d)(3) of the Act, and reopens the comment period on the issue of reasonably attributable impairment, as well as providing an opportunity to comment on all other issues relevant to this rulemaking. Moreover, EPA believes that insofar as the September 5, 1989 notice addresses the Grand Canyon, the preliminary attribution finding therein was not a regulatory proposal that triggered the requirements of section 307(d)(3).

The SRP also complains that EPA has not disclosed the criteria it is applying for attribution decisions or its position on the validity of the WHITEX report, and so interested parties are unable to prepare meaningful comments. The EPA disagrees. The analyses in the WHITEX report speak for themselves. Except where specifically noted otherwise, EPA agrees with the individual analysis conducted by NPS and with the report's conclusions that the NGS is a significant source of wintertime visibility impairment in the Grand Canyon. The EPA believes that this notice, together with the WHITEX report and the other analyses that have been placed in the docket, provides an adequate basis on which to prepare comments on the technical merits of WHITEX and on the merits of today's proposal in general. The EPA will respond to technical comments when it takes final action on today's proposal.

Regarding SRP's complaint about the absence of "standards" for deciding whether Grand Canyon impairment is reasonably attributable to NGS, it appears that SRP is calling upon EPA to set a percentage benchmark for its attribution decision. The EPA tentatively believes that it is neither necessary nor appropriate under the visibility regulations to establish such a percentage criteria. The provision in 40 CFR 51.303 allowing exemptions from

<sup>42</sup> Summary Statement by Brand Niemann, March 21, 1990.

<sup>43</sup> Modeling Regional Haze in the Southwest: A Preliminary Assessment of Source Contribution (Systems Application, Inc. Feb. 1985).

<sup>44</sup> Calculations of the Haze Impacts of the Navajo Generating Station on Grand Canyon and Other National Parks in the "Golden Circle" of Utah and Arizona (D.A. Latimer Jan. 1991).



BART limits where a source owner or operator demonstrates that it does not cause or contribute to a "significant" visibility impairment strongly suggests that a percentage cutoff is inappropriate. Consequently, EPA believes that today's proposed finding of reasonably attributable impairment in the Grand Canyon due in a "substantial" or "significant" degree to emissions from NGS is satisfactory. However, EPA solicits comments on whether, in taking final action on today's proposal, it should establish a percentage criterion for determining whether impairment is reasonably attributable to a stationary facility.

#### Format for Remedial Action

With respect to past implementation of their visibility requirements and because of the large number of States involved and the ongoing nature of the regulatory requirements, EPA deemed it appropriate to promulgate generic Federal implementing regulations and insert them into the SIP's of the affected States. See, e.g., 40 CFR 52.26 (visibility monitoring strategy, implementing 40 CFR 51.305); 40 CFR 52.27 and 52.28 (visibility new source review, implementing 40 CFR 51.307); 40 CFR 52.29 (implementing long-range strategies, 40 CFR 51.306); 40 CFR 51.145 (b) and (c) (incorporating these provisions into the Arizona SIP). With respect to source attribution and BART, however, Arizona is the only State for which remedial Federal measures are even potentially needed at this time. Accordingly, EPA proposes to simply follow the appropriate provisions of the Part 51 visibility regulations in making source attribution and BART findings regarding NGS and, if those findings result in the imposition of actual emissions limitations under BART, to amend the visibility FIP for Arizona in 40 CFR 52.145 to incorporate such limitations.

#### Nonprecedential Effect of This Action

Today's proposal is limited to the rulemaking obligation currently before EPA: To determine whether to require the application of BART at NGS in order to remedy visibility impairment in the Grand Canyon. As such, it has no direct precedential effect on any other rulemaking action EPA might undertake in the future regarding other existing sources or Class I areas. This is so because the outcome of this rulemaking will be highly dependent upon facts and circumstances that are unique to this proceeding and thus may not be decisive for other cases. For example, the tracer studies and other analyses contained in the WHITEX report that are keyed to

NGS are not necessarily determinative in any other rulemaking addressing other potential sources of visibility impairment. Should EPA or State agencies conduct visibility rulemakings regarding other Class I areas and other existing sources of pollution in the future, they will need to rely on studies and analyses tailored specifically to the circumstances of those other areas and sources in order to make reasoned regulatory decisions. They will not be able to rely solely on WHITEX findings that specifically address the Grand Canyon and NGS to determine the existence of impairment that is reasonably attributable to any such other source. Likewise, the final BART emission limit that emerges from this rulemaking will not have direct precedential effect elsewhere. The statutory requirement that EPA weigh the costs of compliance, the expected improvement in visibility, and other BART factors before reaching a decision is by nature a case-specific process.

Upon completion of final rulemaking action regarding NGS, EPA will have completed its obligations under the settlement agreement in *EDF v. Reilly* and under the first round of SIP/FIP planning called for in the visibility regulations. The EPA will then focus its attention on establishing the visibility transport commissions and conducting the regional haze studies called for in new section 169B of the Act added by the Clean Air Act Amendments of 1990. In addition, EPA plans to conduct a tracer study of emissions from the Mohave Power Plant.<sup>45</sup>

#### Solicitation of Comments

The EPA solicits comments on all aspects to today's proposal to revise the FIP for the State of Arizona to include emission limits for NGS to address the visibility impairment observed during the winter months in the Grand Canyon.

Specifically, EPA is reopening the comment period for issues pertaining to today's proposed finding that a portion of the visibility impairment in the Grand Canyon is reasonably attributable to NGS.

In addition, EPA solicits comments on all aspects of the BART analysis for NGS including, but not limited to, the following: Assumptions made in the IAPCS cost model, the model selected to determine the improvements in visibility expected to occur in the Grand Canyon as a result of SO<sub>2</sub> controls at NGS, the emission limits representing BART, and the appropriate averaging time to be used to determine compliance, the use of

seasonal controls, and schedule for compliance. The EPA also solicits comments on the appropriateness of establishing opacity and NO<sub>2</sub> limits similar to plants with emission limitations developed over the past 10 years and NGS's existing emission rates. The EPA also solicits comments on the benefit analysis performed in conjunction with the BART analysis and on the pilot benefits study submitted to EPA by SRP.

EPA solicits comments on the legal and regulatory issues discussed above and on the format for remedial action.

Finally, EPA solicits comments on updating BART Guideline to delete the NSPS presumption.

The EPA has established a docket for this proposal, Docket Number A-89/02A. The docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA during this proceeding. This docket will serve as the record in the case of judicial review under section 307(b) of the Act, 42 U.S.C. 7607(b).

#### Classification

Executive Order No. 12291 requires each Federal agency to determine if a regulation is a "major" rule as defined by the order and "to the extent permitted by law," to prepare and consider an RIA in connection with every major rule. Major rules are defined as those likely to result in:

- (1) An annual cost to the economy of \$100 million or more; or
- (2) A major increase in costs or prices for consumers or individual industries; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or international trade.

The EPA has judged the proposed BART regulation for NGS to be a major rule based on projected annualized costs potentially in excess of \$100 million. The EPA has prepared a preliminary RIA that includes estimates of costs, benefits, and net benefits for three control options. The preliminary analysis, titled "Regulatory Impact Analysis of a Revision of the Federal Implementation Plan for the State of Arizona to Include SO<sub>2</sub> Controls for the Navajo Generating Station," and an addendum, titled "Addendum to the Regulatory Impact Analysis of a Revision of the Federal Implementation Plan for the State of Arizona to Include SO<sub>2</sub> Controls for the Navajo Generating Station" are available in Docket A-89-02A.

<sup>45</sup> H.R. Rep. 900, 101st Congress, 2d Sess., at 68 (Oct. 1990).



The preliminary RIA finds that given the estimates and uncertainties captured by the benefit and cost analysis, a 0.10 lbs/MMBtu emission limit will result in potential economic gains to society among all examined alternatives, i.e., the net benefits (estimated benefits minus estimated costs) are positive. An examination of less stringent regulatory alternatives (e.g., a 0.30 lbs/MMBtu and 0.50 lbs/MMBtu SO<sub>2</sub> emission limit) resulted in smaller but still positive estimated net benefits. Taking into consideration the uncertainties in the analysis, the EPA is proposing a 0.30 lbs/MMBtu emission limit rather than the alternative that produces the maximum estimated economic gains. With implementation of the proposed regulation, the cost of power generation at NGS will increase. The projected cost increase is estimated to raise the average cost of power generation by less than 5 percent for utilities using NGS power. The cost impacts could be lower if the acid deposition allowances are sold.

In particular, the cost increase may be partially offset by revenue earned through the sale of SO<sub>2</sub> marketable allowances. The NGS may use this revenue to recover part of the cost of SO<sub>2</sub> control technology or may bank it against the operator's future expansion.

The preliminary RIA was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Written comments from OMB and written EPA response to these comments are available for public inspection at the docket office cited above. A final RIA will be issued at the time of the final rulemaking.

#### Paperwork Reduction Act

This rule will impose a modest reporting burden on the owners of the NGS to enable EPA to ensure compliance with the emission limits. Because the reporting burden affects only a single source, it is not subject to OMB review under the Paperwork Reduction Act.

#### Section 317(c) Economic Impact Assessment

The economic impact assessment required by section 317(c) of the Act is incorporated in the RIA.

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), an agency proposing or promulgating a rule must determine if the rule will have a significant impact on a substantial number of small entities. If a significant impact on a substantial number of small entities is anticipated, an RFA must be prepared. None of the

owners of the NGS are classified as small according to guidelines developed by the Small Business Administration.

For most of the utilities using NGS power, the impact on utility rates will be substantially less than 5 percent which applies to the most affected utility (Nevada Power Company).

Accordingly, I hereby certify that the proposed regulation will not have a significant impact on a substantial number of small entities. Therefore, this proposed regulation does not require an RFA.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 3, 1991.

F. Henry Habicht,

Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 52 of the Code of Federal Regulations is proposed to be amended as follows.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.145 is amended by adding paragraph (d) to read as follows:

##### § 52.145 Visibility protection.

(d) This paragraph is applicable to the fossil fuel-fired, steam-generating equipment designated as Units 1, 2, and 3 at the Navajo Generating Station in the Northern Arizona Intrastate Region (§ 81.270 of this chapter).

(1) No owner or operator of the fossil fuel-fired, steam-generating equipment to which this paragraph is applicable shall discharge or cause the discharge of:

(i) Sulfur oxides into the atmosphere in excess of 126 ng/J (0.30 pounds per million British thermal units (lbs/MMBtu)) heat input. Compliance with this emission limit to be determined on a 30-day rolling average.

(ii) Nitrogen oxides into the atmosphere in excess of 210 ng/J (0.50 lbs/MMBtu) heat input based on a 30-day rolling average.

(iii) Stack emissions which exhibit greater than 20 percent opacity (6-minute average) except for one 6-minute period per hour of not more than 27 percent opacity.

(iv) The owner or operator of the NGS shall install and maintain continuous

emission monitors to determine compliance with the emission limitations in paragraphs (d)(1) (i), (ii), and (iii) of this section on a continuous basis. This equipment shall meet the specifications listed in appendix B of 40 CFR part 60. The facility shall comply with the quality assurance procedures found in appendix F of 40 CFR part 60.

(2) The owner or operator of the fossil fuel-fired, steam-generating equipment to which this paragraph is applicable:

(i) Shall notify the EPA Regional Office or its designee, of the SO<sub>2</sub>, NO<sub>x</sub>, oxygen and carbon dioxide emissions, and opacity according to the procedures found in 40 CFR 60.7.

(ii) Shall maintain records according to the procedures found in 40 CFR 60.7.

(3) The requirements of paragraphs (d) (1) and (2) of this section shall be applicable to one unit at the facility by January 1, 1995, two units by January 1, 1997, and all units by January 1, 1999.

[FR Doc. 91-3075 Filed 2-7-91; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 69

[CC Docket No. 78-72, DA 91-37]

#### Common Transport and Dedicated Transport

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Request for information to supplement the record.

SUMMARY: The Common Carrier Bureau adopted a notice of proposed rulemaking in 1984 to consider issues relating to the waiver of the Commission's Rules prescribing a rate structure for recovering the costs of providing transport access facilities. Since that notice of proposed rulemaking was adopted, there have been numerous changes in the telephone industry and in Commission regulations affecting that industry. Therefore, we request that interested parties file comments in this proceeding to update the record.

DATES: Comments must be received on or before February 22, 1991; replies must be received on or before March 22, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Melissa Newman, Policy and Program Planning Division, Common Carrier Bureau (202) 632-9342.



**SUPPLEMENTARY INFORMATION:** This is a summary of the Common Carrier Bureau's Request for Information to Supplement the Record (DA 91-37), adopted January 14, 1991, and released January 16, 1991. The full text of this decision is available for inspection and copying during normal business hours in the FCC Office of Public Affairs (room 202), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street, NW., suite 140, Washington, DC 20037, (202) 452-1244.

#### Summary of Request for Information to Supplement the Record

1. In the Access Charge Order, the Commission adopted rules for recovering costs for the local exchange carrier transmission and switching facilities used by interexchange carriers to originate and terminate interstate traffic. The Access Charge Order directed carriers to allocate transport costs between two elements: "dedicated transport" and "common transport." See Section 69.111 and 69.112 of the Communications Act, 47 CFR 69.111 and 69.112. In 1982, the United States District Court for the District of Columbia adopted the Modification of Final Judgment (MFJ) in *United States v. AT&T*, 552 F. Supp. 131 (D.D.C.), *aff'd sub nom. Maryland v. United States*, 103 S.Ct. 1240 (1983). The MFJ requires that until September 1, 1991, "charges for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, shall be equal, per unit of traffic delivered or received for all interexchange carriers." The Commission subsequently granted a petition by AT&T and the Bell Operating Companies (BOCs) a waiver of the transport rules, and permitted local exchange companies to impose charges for transport that did not comply with §§ 69.111 and 69.112 of the Commission's Rules, 47 CFR 69.111 and 69.112. On December 28, 1984, the Commission issued a notice of proposed rulemaking in this docket to consider issues relating to the waiver of the transport rules.

2. Since the issuance of the notice of proposed rulemaking six years ago, there have been numerous changes in the structure of the telephone industry and in Commission regulations affecting that industry. For example, the extent and nature of interexchange competition have changed significantly. Also, alternative access providers have begun to compete with local exchange carriers in the provision of interstate access

service, and have requested expanded interconnection to the BOC networks. The physical network is changing with the development of new technologies such as Signaling System 7 and Integrated Services Digital Network. Furthermore, the Commission has undertaken a variety of regulatory initiatives, including the implementation of Subscriber Line Charge and Open Network Architecture programs, and price cap regulation for the LECs. Parties have not had an opportunity in this proceeding to comment upon these and other changes. Therefore, we request that interested parties update the record by addressing what, if any, relevance recent development may have for the resolution of the issues raised in the Commission's notice of proposed rulemaking.

#### Ordering Clause

3. *It is ordered*, Pursuant to §§ 0.91 and 0.291 of the Commission's Rules, 47 CFR 0.91 and 0.291 that comment is invited in this proceeding.

4. It is further ordered, That pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with the Secretary on or before February 22, 1991, and reply comments shall be filed with the Secretary on or before March 22, 1991. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Policy and Program Planning Division, Common Carrier Bureau, room 544, 1919 M Street, NW., Washington, DC. Parties should also file one copy of any documents filed in this docket with this Commission's copy contractor, Downtown Copy Center, suite 140, 1114 21st Street, NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the Docket Reference Room, room 239, 1919 M Street, NW., Washington, DC 20554.

#### List of Subjects for 47 CFR Part 69

Communications common carriers.  
Federal Communications Commission.  
Richard M. Firestone,  
Chief, Common Carrier Bureau.  
[FR Doc. 91-3061 Filed 2-7-91; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 91-9, RM-7423]

#### Radio Broadcasting Services; Greenfield and Del Rey Oaks, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Troposphere Broadcasting Limited Partnership, permittee of Station KQKZ(FM), Channel 300B, Greenfield, California, seeking to change the community of license for Channel 300B from Greenfield to Del Rey Oaks, California, and to reclassify its permit to specify operation on Channel 300A at the latter location. Because Del Rey Oaks is within the Seaside-Monterey Urbanized Area, petitioner is requested to submit information sufficient to show that Del Rey Oaks is deserving of a first local FM service preference. Coordinates used for this proposal are 36-34-47 and 121-50-50.

**DATES:** Comments must be filed on or before March 28, 1991, and reply comments on or before April 12, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Howard M. Liberman, Esq., and Jonathan V. Cohen, Esq., Arter and Hadden, 1919 Pennsylvania Avenue, NW., suite 400, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 91-9, adopted January 28, 1991, and released February 4, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission



consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-3062 Filed 2-7-91; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AB42

#### Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Proposed Threatened Status for Argali

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of extension of comment period.

**SUMMARY:** The Service gives notice that the comment period on the proposed rule to determine endangered status for the argali, a wild sheep of Asia, will be extended by 75 days.

**DATES:** Comments must be received by April 20, 1991.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Chief, Office of Scientific Authority; Mail Stop: Arlington Square, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703-358-1708 or FTS 921-1708).

#### SUPPLEMENTARY INFORMATION:

##### Background

In the Federal Register of October 5, 1990 (55 FR 40890-40896), the Fish and Wildlife Service issued a proposed rule to determine threatened status for the argali (*Ovis ammon*), a large wild sheep found in Soviet Central Asia, Mongolia, China, and the Himalayan region. The comment period on the proposal originally closed on February 4, 1991. This deadline did not allow sufficient time for the Service to solicit and receive comments from numerous foreign authorities and certain other interested parties. The Service therefore is extending the comment period until the date shown above.

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1545; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

Dated: February 4, 1991.

John D. Buffington,

*Regional Director—Region 8.*

[FR Doc. 91-3002 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-55-M



# Notices

Federal Register

Vol. 56, No. 27

Friday, February 8, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[CN-91-005]

#### Advisory Committee on Cotton Marketing Meeting

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Advisory Committee on Cotton Marketing will meet on Wednesday, February 20, 1991, beginning at 8 a.m. at the Airport Hyatt Regency, International Parkway, Dallas/Fort Worth Airport, Texas.

The primary purpose of the meeting is to obtain the committee's recommendations regarding the establishment of premiums and discounts for fiber strength and the premium micronaire range, both of which will be incorporated into the Commodity Credit Corporation's price support loan schedule for the first time in 1991. This meeting is open to the public, and written comments may be submitted in advance or following the meeting to Jesse F. Moore, Director, Cotton Division.

**FOR FURTHER INFORMATION CONTACT:** Jesse F. Moore, Director, Cotton Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456; (202) 447-3193.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee on Cotton Marketing was initially established in 1988 by the Secretary of Agriculture to review the cotton marketing system and to recommend ways of improving its efficiency. Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463).

Dated: February 1, 1991.

Daniel Haley,  
Administrator.

[FR Doc. 91-3160 Filed 2-6-91; 10:58 am]

BILLING CODE 3410-02-M

### Forest Service

#### Emerald Resource Unit Timber Sales; Idaho Panhandle National Forests, Benewah County, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** Notice is hereby given that the Forest Service is gathering information in order to prepare an Environmental Impact Statement (EIS) for a proposal to harvest timber and build roads in the Emerald Creek drainage. The drainage is located approximately 3 air miles west of Clarkia, Idaho.

The proposed action is to harvest 9.6 million board feet of timber in the Emerald Resource Unit. This would include 375 acres of clearcuts, 400 acres of group selection, 20 acres of individual tree selection and 150 acres of commercial thinning. This action would require 13 miles of new road construction and 3 miles of road reconstruction.

**DATES:** Written comments concerning the scope of the analysis must be received by March 25, 1991.

**ADDRESSES:** Send written comments to: District Ranger, St. Maries Ranger District, P.O. Box 407, St. Maries, ID 83861.

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action and EIS should be directed to Tracy J. Gravelle, St. Maries Ranger District, Phone: 208-245-2531.

**SUPPLEMENTARY INFORMATION:** These management activities would be administered by the St. Maries Ranger District of the Idaho Panhandle National Forests in Benewah County, Idaho. This EIS will tier to the Forest Plan (September 1987) which provides the overall guidance for the Idaho Panhandle National Forests in terms of Goals, Objectives, Standards and Guidelines, and Management Area direction. The purpose and goals for the proposed action are to: (1) Provide timber volume for the local community;

(2) provide additional forage for elk on the big game winter range; (3) manage riparian areas to feature riparian dependent resources while producing other resources outputs; and (4) continue to manage grazing use while protecting other resource values. The process used in preparing the draft EIS will include:

1. Continue scoping for potential issues.
2. Eliminate insignificant issues or those which have been covered by a relevant previous environmental analysis.
3. Identify any additional issues to be analyzed in depth. Due to the recent previous EA for this area, several issues have been identified. These include effects that timber harvesting may have on watershed, wildlife habitats and timber volume for the local community.
4. Identify alternatives to the proposed action. The range of alternatives will include the No Action alternative.
5. Identify potential environmental effects of the alternatives.

Management direction for the Emerald Resource Unit has been established by the Forest Plan for Idaho Panhandle National Forests.

The area of consideration for this proposal includes Management Areas (MAs) 1, 4, 13, 15 and 16. A brief description of the management areas follows:

**MA 1:** Manage those lands suitable for timber production for the long-term growth and production of commercially valuable wood products.

**MA 4:** Manage big game winter range to provide sufficient forage to support projected big game populations through scheduled timber harvest and permanent forage areas.

**MA 13:** Manage certain sites due to their special attributes or features. The Emerald Creek Paleontological Area is designated as a special area addition to this management area and is to be managed for educational, scientific and/or recreational purposes. The standards include to manage, preserve and interpret significant specimens in accordance with the Preservation of American Antiquities Act of 1906.

**MA 15:** Manage for continued grazing use while protecting other resource values and maintain vegetation conditions and livestock forage productivity.



**MA 16:** Manage riparian area to feature riparian-dependent resources (fish, water quality, maintenance and natural channels, certain vegetation and wildlife communities) while producing other resource outputs. The primary area listed in the Emerald Resource Unit is the East Fork of Emerald Creek.

The Forest Service is continuing to seek information and comments from all parties who may be interested in or affected by the proposed action. Federal, State and local agencies and other organizations and individuals have participated in a previous environmental assessment for the Emerald Resource Unit. This scoping began in November, 1988. A mailing will be sent to all persons, organizations and public agencies listed on the District's mailing list to seek further comments. For most effective use, comments should be sent to the agency within 45 days from the date of this publication in the **Federal Register**. People may visit with Forest Service officials at any time during the analysis and prior to the decision; however, two periods of time are identified for the receipt of comments on the analysis. These two public comment periods are during the scoping process and in the review of the draft EIS.

The draft environmental impact statement should be available for public review in May, 1991. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. After this public comment period, the comments received will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by September, 1991. The District Ranger, who is the responsible official for this EIS, will make a decision regarding this proposal after considering the comments and responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. This decision and reasons for the decision will be documented in a Record of Decision.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.*

*v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement of the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: January 30, 1991.

Gary W. Sieren,

District Ranger, St. Maries Ranger District,  
Idaho Panhandle National Forests.

[FR Doc. 91-3012 Filed 2-7-91; 8:45 am]

BILLING CODE 3410-11-M

### Soil Conservation Service

#### Cobb Brook Watershed, Massachusetts

**AGENCY:** Soil Conservation Service,  
USDA.

**ACTION:** Notice of intent to deauthorize federal funding.

**SUMMARY:** Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Cobb Brook Watershed Project, Bristol County, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Richard D. Swenson, Acting State Conservationist, Soil Conservation Service, 451 West Street, Amherst, MA 01002, telephone 413-256-0441.

**SUPPLEMENTARY INFORMATION:** A determination has been made by Richard D. Swenson, that the proposed works of improvement for the Cobb Brook Watershed Project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Richard D. Swenson, Acting State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register**.

Dated: January 28, 1991.

Richard D. Swenson,

Acting State Conservationist.

[FR Doc. 91-3025 Filed 2-7-91; 8:45 am]

BILLING CODE 3410-16-M

### DEPARTMENT OF COMMERCE

#### National Technical Information Service

#### Joint Ventures Program; Electronic Media Production Service Agreements; Government Counselling Ltd.

**AGENCY:** National Technical Information Service, Department of Commerce.

**ACTION:** Notice of intent.

**SUMMARY:** As a result of the National Technical Information Act of 1988, codified at 15 U.S.C. 3704b, the National Technical Information Service (NTIS) established a joint ventures program designed to encourage private sector organizations to enter into partnerships with NTIS to disseminate its acquired information to the business, academic and industrial communities more effectively. NTIS described this program in the **Federal Register**, Volume 34, No. 113, June 13, 1989 and solicited comment. This notice describes NTIS' new Electronic Media Production Service (EMPS) and announces NTIS' intention to enter into non-exclusive joint venture agreements with private sector organizations based on this service. This notice also describes NTIS' intention of entering into a non-exclusive joint venture agreement with Government Counselling Limited to produce a CD-ROM product that integrates Federal agency materials with Government-wide regulations and issuances.

**DATES:** This action is effective on March 11, 1991.



**ADDRESSES:** Comments may be sent to: Dr. Joseph Clark, Deputy Director, National Technical Information Service, Springfield, VA 22161.

**FOR FURTHER INFORMATION CONTACT:** Janet Geffner, Joint Ventures Coordinator, at the address given above; telephone (703) 487-4648.

**SUPPLEMENTARY INFORMATION:**

**A. NTIS' Electronic Media Production Service**

NTIS' Electronic Media Production Service is designed to assist Federal activities, on a reimbursable basis, to reproduce and disseminate information on magnetic tapes, floppy and micro diskettes, compact discs and digital tapes. Services include:

- Electronic media mastering and replication;
- Data conversion, preparation, and pre-mastering;
- Software for indexing, retrieving, and presenting this information;
- Technical assistance in designing and evaluating electronic data;
- Technical briefings and training in data preparation and pre-mastering;
- Media packaging;
- Dissemination services.

Federal agencies use the NTIS Electronic Media Production Service through interagency agreements. NTIS bids agency-prepared detailed task orders with proven, prequalified contractors who produce the information products, or provide the required information dissemination services.

**B. Joint Venture Opportunities**

Private sector organizations are invited to participate in this program by:

- Developing a value-added product based in whole or in part on information available from Federal agencies;
- Identifying individual Federal agencies that would be interested in providing NTIS with their internal information (textual data, numeric data, regulations, procedures, etc.) for conversion into magnetic and optical media;
- Providing NTIS with data in premastered format;
- Marketing and selling the product.

**C. NTIS Participation**

NTIS will participate by:

- Obtaining the information from the agency in an agreed-upon format.
- Producing the electronic product through its Electronic Media Production Services.
- Providing the joint venture partner with an agreed-upon number of products for sale.
- Marketing and selling the product.

The joint venture partner and NTIS will share the revenue resulting from the sale of the product based on each partners' costs and risks.

After evaluating the concept and business plan proposed by the prospective partner to determine if the effort meets the objectives of the joint venture program, NTIS will enter into the agreement with no further announcement.

To obtain NTIS Joint Venture Guidelines, contact Janet Geffner at the above address. For further information about the Electronic Media Production Service, contact Allan Betts, EMPS manager at the above address; telephone 703-487-4672.

**D. Joint Venture Agreement With Government Counselling Limited**

The National Technical Information Service (NTIS) and Government Counselling, Limited (GCL) intend to enter into a non-exclusive joint venture agreement to produce a CD-ROM product that integrates Federal agency materials with Government-wide regulations and issuances. Under the terms of the agreement, GCL will integrate the agency material with the latest Federal regulations and related information and return the resulting package to NTIS in pre-mastered datafile format for CD-ROM mastering and replication. Through its Electronic Media Production Service, NTIS will replicate sufficient CD-ROMs to fill requirements.

NTIS will market the resulting CD-ROMs to Government agencies as either a stand-alone product or a subscription product. With agency permission, GCL will promote and market the stand-alone product or subscription product to the public. Both organizations will share the revenue.

**Joseph F. Caponio,**  
*Director, National Technical Information Service.*

[FR Doc. 91-3024 Filed 2-7-91; 8:45 am]

BILLING CCDE 3510-04-M

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**New Visa Stamp and Amendment of Export Visa Requirements for Certain Textile Products or Manufactured in the Federative Republic of Brazil**

January 31, 1991.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs authorizing

the use of a new visa stamp and amending visa requirements.

**EFFECTIVE DATE:** April 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the Federative Republic of Brazil has notified the United States Government that it will begin issuing a new visa stamp to accompany shipments of textile and apparel products, produced or manufactured in Brazil and exported from Brazil to the United States. The Brazilian authorizing agency printed on the visa stamp has been changed from CACEX to DECEX-CTIC.

Also, the visa arrangement is being amended to include coverage of merged Categories 351/651.

A description of the textile and apparel categories in terms of HTS numbers is available in the correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see *Federal Register* notice 55 FR 50756, published on December 10, 1990). Also see 54 FR 456, published on January 6, 1989.

**Auggie D. Tantillo,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 31, 1991.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

**Dear Commissioner:** This directive amends, but does not cancel, the directive of January 3, 1989 from the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry and withdrawal from warehouse for consumption in the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil for which the Government of the Federative Republic of Brazil has not issued an appropriate export visa.

Effective on April 1, 1991, the directive of January 3, 1989 is amended to provide for the use of a new visa stamp to accompany shipments of textiles and textile products exported from Brazil on and after April 1, 1991.

A facsimile of the new visa stamp is enclosed with this letter.<sup>1</sup>

Also effective on April 1, 1991, you are directed to extend coverage of the existing visa requirements to include cotton and man-made fiber textile products in merged



Categories 351/651, produced or manufactured in Brazil and exported from Brazil on and after April 1, 1991. Merchandise in Categories 351/651 must be accompanied by either the correct merged category or the correct category corresponding to the actual shipment.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantiilo,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 91-2685 Filed 2-7-91; 8:45 am]

BILLING CODE 3510-DR-M

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### Procurement List Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List commodities to be produced by workshops for the blind and other severely handicapped.

**EFFECTIVE DATE:** March 11, 1991.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman, (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On November 30, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 49677) of proposed additions to the Procurement List.

Comments were received from the current contractor for this item. The contractor claimed that it would be directly affected by the removal of any clothing item from competitive procurement because it is entirely dependent on the Government for its sales and a definite drop in Government procurement of clothing is forecast for the very near future. It also questioned the capability of the workshop to produce such a complicated item.

Normally, the Committee does not consider a possible decrease in the size of the overall Government market for clothing to be serious adverse impact on a contractor for a specific clothing item. The market for that item is not necessarily the same as that for all clothing items. In this case, the contractor's prediction has also turned

out to be inaccurate because of Operation Desert Shield.

The procurement agency for this item has inspected the designated workshop for the proposed addition and informed the Committee that it considers the workshop capable of producing the item. The workshop is currently producing a similar item for the Government.

After consideration of the material presented to it concerning capability of a qualified workshop to produce the commodities at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government. Accordingly, the following commodities are hereby added to the Procurement List:

#### Overalls, Bib

8415-01-228-1323

8415-01-228-1324

8415-01-228-1325

8415-01-228-1326

8415-01-228-1327

8415-01-228-1328

8415-01-228-1329

8415-01-228-1330

8415-01-228-1331

8415-01-228-1332

(Remaining 60 percent of Government's Requirement)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,

*Deputy Executive Director.*

[FR Doc. 91-3084 Filed 2-7-91; 8:45 am]

BILLING CODE 6820-33-M

### Procurement List Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List a commodity to be produced and a service to be provided

by workshops for the blind or other severely handicapped.

**EFFECTIVE DATE:** March 11, 1991.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 2202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On December 21, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 52294) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodity and provide the service at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and service listed.

c. The actions will result in authorizing small entities to produce the commodity and provide the service procured by the Government.

Accordingly, the following commodity and service are hereby added to the Procurement List:

#### Commodity

Strap Assembly

4935-00-784-0141

(Remaining Government Requirement)

#### Service

Commissary Shelf Stocking and Custodial, Hunter Army Airfield, Savannah, Georgia.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,

*Deputy Executive Director.*

[FR Doc. 91-3085 Filed 2-7-91; 8:45 am]

BILLING CODE 6820-33-M



**Procurement List Proposed Additions**

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Proposed additions to procurement list.

**SUMMARY:** The Committee has received proposals to add to the Procurement List commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 11, 1991.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to the Procurement List:

*Commodities**Folder, File*

7530-00-926-2122

7530-00-926-2123

*Label, Pressure-Sensitive*

7530-00-01R-1357

7530-00-02R-1357

*Cover, Canteen*

8465-01-118-8175

*Service*

Janitorial/Custodial, Federal Aviation Administration, Automated Flight Service Station, 9230 Cessna Drive, Juneau, Alaska.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 91-3086 Filed 2-7-91; 8:45 am]

BILLING CODE 6820-33-M

**DEPARTMENT OF DEFENSE****Department of the Air Force****USAF Scientific Advisory Board; Meeting**

The USAF Scientific Advisory Board (SAB) Ad Hoc Committee on Hypersonic Technologies will meet on 25-26 February 1991, from 8 a.m. to 5

p.m., at Wright Laboratory, Wright-Patterson AFB, OH 45433.

The purpose of this meeting is to gather information in support of the SAB study on hypersonic technologies.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-3093 Filed 1-7-91; 8:45 am]

BILLING CODE 3910-01-M

**DEPARTMENT OF EDUCATION****Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before March 11, 1991.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett, (202) 708-5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: February 4, 1991.

Mary P. Liggett,

Acting Director, for Office of Information Resources Management.

**Office of Planning, Budget and Evaluation**

*Type of Review:* New.

*Title:* A Study of Satisfactory Progress Rules and the Grades of Students.

*Frequency:* One-time.

*Affected Public:* Non-profit Institutions.

*Reporting Burden:*

*Responses:* 150.

*Burden Hours:* 150.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This study will collect data from postsecondary institutions regarding the legislative definition of satisfactory academic progress required for Federal Student Aid. The Department will use this data for program assessment and to report to Congress.

**Office of Postsecondary Education**

*Type of Review:* New.

*Title:* Request for Payment of Supplemental Preclaims Assistance.

*Frequency:* Monthly.

*Affected Public:* State or local governments; Non-profit Institutions.

*Reporting Burden:*

*Responses:* 660.

*Burden Hours:* 660.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* The Guarantee Agency Monthly Request for Payment of Supplemental Preclaims Assistance Form is used by guarantee agencies to report SPA activity. The Department uses this information to calculate the payments due to the guarantee agencies.



### Office of Educational Research and Improvement

*Type of Review:* Revision.

*Title:* Library Services and Construction Act (Pub. L. 101-254) Annual Financial Performance Report for State Administered Programs—Titles I, II, and III.

*Frequency:* Annually.

*Affected Public:* State or local government.

*Reporting Burden:*

*Responses:* 54.

*Burden Hours:* 2,430.

*Recordkeeping Burden:*

*Recordkeepers:* 54.

*Burden Hours:* 5.

*Abstract:* These forms will be used by State Library Administrative Agencies that receive funds under the Library Services and Construction Act, as amended. The Department uses the information collected to assess the accomplishments of project goals and objectives and to aid in effective program management.

### Office of Educational Research and Improvement

*Type of Review:* Extension.

*Title:* Field Test of The Schools and Staffing Survey Teacher Transcript and Student Records Study.

*Frequency:* One-time.

*Affected Public:* Individuals or households; State or local governments; Businesses or other for profit; Non-profit institutions; Small businesses or organizations.

*Reporting Burden:*

*Responses:* 1,400.

*Burden Hours:* 1,450.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This study will gather student data, teacher transcript data, and other related teacher data. The Department will use this information as part of the analysis of the Schools and Staffing Survey.

[FR Doc. 91-3050 Filed 2-7-91; 8:45 am]

BILLING CODE 4000-1-M

## DEPARTMENT OF ENERGY

### Record of Decision: Superconducting Super Collider

**AGENCY:** Department of Energy.

**ACTION:** Record of decision, superconducting super collider (SSC).

**SUMMARY:** DOE has decided to proceed with construction and operation of the SSC at the selected site in Ellis County, Texas. A Mitigation Action Plan will be

prepared prior to initiation of any actions for which mitigation measures have been committed.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph R. Cipriano, Manager, SSC Project Office, U.S. Department of Energy, 1801 North Hampton Avenue, DeSoto, Texas 75115.

### Decision

DOE has decided to proceed with construction and operation of the SSC at the selected site in Ellis County, Texas.

DOE has determined that the required technical modifications to the original SSC conceptual design can be adapted to this site at a defined cost, and with minimal adverse effect on the environment. DOE will prepare a Mitigation Action Plan prior to initiating any actions for which mitigation measures have been committed to in the Supplemental EIS (DOE/EIS-138FS). This Plan will explain how measures designed to mitigate adverse environmental impacts associated with the proposed action will be implemented and evaluated.

### Basis for Decision

This Record of Decision has been prepared pursuant to the Council on Environmental Quality "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA)" (40 CFR parts 1500-1508), and DOE "Guidelines for Compliance with NEPA" (52 FR 47662, December 15, 1987).

Two alternatives have been assessed in the Supplemental EIS for the Superconducting Super Collider (DOE/EIS-0138FS); proceeding with construction and operation, and the no-action alternative. The preferred alternative is to construct and operate the SSC utilizing a design which accommodates recent technical improvements and adapts the layout of the facility to the Texas site.

The broad features of the SSC have not changed substantially since the 1988 environmental impact statement which evaluated site and technical alternatives (DOE/EIS-0138). The major element of the SSC is still a large oval tunnel, some 54 miles in circumference, within which counter-rotating beams of protons will be guided by some 10,000 superconducting magnets. However, as was anticipated in the December 1988 EIS, some design details have been modified to maximize SSC performance, and accommodate environmental and technical aspects of the Texas site. Evolution of the SSC design and additional knowledge gained from a geological testing program have resulted

in a more precise location for the SSC collider footprint, service and campus areas, utility corridors, access roads, and other project elements.

The major changes that affected the analyses in the Supplemental EIS are:

- (1) The repositioning of the halls which will contain the experimental detectors;
- (2) A slight shift in the collider ring to improve geologic foundation characteristics;
- (3) An increase in the energy (and size) of the proton beam injectors to improve overall operating efficiency;
- (4) A change in the size and specific configuration of the superconducting magnets; and
- (5) The use of cooling ponds rather than cooling towers for the cryogenic refrigeration systems.

Because of these changes, the size and location of the service areas around the 54-mile ring also have changed. These service areas include access shafts and refrigeration plants to service the superconducting magnets. Each service area has been laid out to contain a cooling pond of roughly 20 acres.

The following impacts could potentially result from SSC construction and operation at this site:

(1) SSC operation would contribute to the observed decline in groundwater levels in Ellis County through pumping from wells at each of the service areas. However, the DOE commits to utilizing surface water supplies wherever feasible, and siting wells to avoid impacts to nearby users, to the extent possible.

(2) Four of 18 service areas are located in or near floodplains, and careful design will be required to minimize the potential for flooding. The SSC project will work closely with the U.S. Army Corps of Engineers during both design and construction at these locations.

(3) Up to 21 acres of wetlands—14 acres as small ponds, and 7 acres of forested stream areas—would be impacted to some degree. Mitigation through avoidance is likely for most of the forested wetland acreage. Other impacted wetlands will be compensated for by development of wetland habitat on other SSC project land, with the goal of 150 percent replacement of impacted wetlands.

(4) Construction-related impacts to air quality would primarily be localized increases in fugitive dust, primarily from spoils hauling operations, which will be controlled through standard dust suppression measures. The operation of the SSC will result in only small additions to regional air emissions,



which will have only minimal impacts to regional air quality.

(5) The SSC would have no impact to threatened or endangered species, and only minor impacts to existing wildlife habitat areas. Use of SSC-controlled land to create natural areas may actually result in enhancement of wildlife habitat and an increase in wildlife diversity.

(6) Ellis County has a wealth of historic structures—houses, farmsteads, bridges, and the like—a small number of which are located on land that will be acquired for the SSC. Additionally, there is a potential for archeological sites to be found in this part of Ellis County. DOE has entered into a Programmatic Agreement (PA) with the Texas Historical Commission to avoid or satisfactorily mitigate the effects of the SSC Project on historic properties. The PA provides requirements for specific management plans to be developed to monitor and mitigate specific program areas. The plans will specify how known and discovered archaeological resources and historic properties will be protected, monitored, documented, and mitigated.

(7) Construction and operation of the SSC will create jobs and generate new opportunities for local business. It will also result in people moving into the region. This in-migration is predicted to cause small but measurable impacts to services (such as schools) in some communities. A socioeconomic impact monitoring program will be implemented to ascertain whether any local community experiences SSC-related impacts associated with the area's growth outpacing the supporting infrastructure. If so, different types of assistance will be made available to ease the impact.

(8) Road construction and improvement may create short-term inconveniences to local residents and commuters. Additionally, during the period of construction short-term increases in traffic on local roads can be expected. Mitigation of impacts to roads and highways will consist of scheduling construction activities to minimize peak-hour congestion, the use of alternate routes by project related traffic, and by completing required roadway improvements on an accelerated schedule.

#### Background

The basic purpose of the SSC is to gain a better understanding of the fundamental structure of matter. This machine will be capable of accelerating two beams of subatomic particles (protons) to an energy of 20 trillion electron volts (TeV). The two counter-

rotating beams will be made to collide, and the results of these collisions (at energies up to 40 TeV) will be studied by scientists at the SSC Laboratory. The SSC will be able to create particle collisions at energies 20 times higher than can be achieved at existing accelerators. This means that the SSC will be able to probe the properties of matter at distances 20 times smaller than can now be done with existing and planned particle accelerators. The SSC will enable the United States to maintain its world leadership in the field of high energy physics.

Construction of the SSC is anticipated to be completed during the late 1990's. The SSC is then expected to remain in operation as a research laboratory for at least 25 to 30 years. Additional NEPA review will be completed prior to a decision to either:

- (1) Adapt SSC facilities for additional research missions; or
- (2) Decommission the facility.

On November 10, 1988, the Secretary of Energy identified the Ellis County, Texas site as the preferred alternative for the location of the SSC. The DOE published a final environmental impact statement (FEIS) in December 1988, and a Record of Decision (ROD) was signed in January 1989 that documented DOE's decision to proceed with the SSC and to formally select the Texas site. In the FEIS and the ROD, DOE committed to prepare a supplemental EIS (SEIS) prior to construction in order to analyze more fully impacts based on a site-specific design, and to assess additional measures to mitigate potentially adverse impacts.

The scope of the SEIS was based on: (1) Issues raised on the draft EIS; (2) a revised design accommodating the environmental characteristics of the Ellis County site; and (3) additional geotechnical and environmental analyses conducted as part of the early design phase. A Notice of Preparation for the SEIS was issued (55 FR 23585, June 11, 1990). An Implementation Plan was prepared and distributed to the SEIS mailing list in July 1990. The draft SEIS was issued in August 1990. The Environmental Protection Agency (EPA) Notice of Availability (55 FR 35719, August 31, 1990) announced a 45-day public review and comment period on the draft SEIS. During that time two public hearings were held, one in Waxahachie and the other in Ennis, Texas. DOE received approximately 370 oral and written comments. DOE released the final SEIS in December 1990. The EPA Notice of Availability for the final SEIS was published on December 28, 1990 (55 FR 53347).

#### Alternatives Considered

Two alternatives were considered by DOE and evaluated in the SEIS: (1) Proceeding with construction and operation of the SSC utilizing a design that accommodates the environmental characteristics of the Texas site; and (2) the no-action alternative. Although both alternatives would result in some associated impacts, the no action alternative (i.e., not constructing and operating the SSC) is the environmentally preferable alternative. The no action alternative, however, would result in socioeconomic impacts related to the closing of the SSC Laboratory and related state and federal project organizations. This would directly affect approximately 900 employees. Associated earnings and project spending in the region also would no longer occur if the no-action alternative were selected.

Adverse impacts from the construction and operation alternative, as assessed in the SEIS, are expected to be small. The Ellis County site has already been highly modified through extensive development of the land for agricultural purposes, and there is a high potential for mitigation of adverse impacts. Additionally, there are opportunities to enhance the environmental quality of SSC-managed land. Habitat enhancement will include restoring portions of the campus areas to original pre-agricultural prairie conditions and creating new wetland habitat. Adverse impacts that cannot be avoided include: the loss of all water wells within 150 feet of the SSC tunnel centerline; an increase to the regional groundwater overdraft if drilled wells are utilized at SSC service areas; loss of approximately 1,925 acres of potential wildlife habitat; impacts to 10 isolated wetlands (14 acres); one hundred ninety-three relocations as a result of the land acquisition process; short-term noticeable fugitive dust emissions during SSC construction; conversion and withdrawal of up to 4,632 acres of prime and unique farmland; and short-term noise levels above the acceptable level during construction near some service areas.

#### Mitigation

DOE is committed to implementing all practicable means to avoid or minimize environmental harm from construction and operation of the SSC, as identified in the final SEIS. The proposed layout of the SSC reflects efforts to minimize surface impacts through consideration of floodplains, land use, soil characteristics, visual resources.



watersheds, noise receptors, potential habitat, and access routes. Additionally, DOE will prepare a Mitigation Action Plan for each of the mitigation measures committed to the SEIS. This plan will explain how measures designed to mitigate adverse environmental impacts associated with construction and operation of the SSC will be implemented and measured for success.

#### Conclusion

DOE has weighed the costs, benefits and environmental impacts of proceeding to construct and operate the Superconducting Super Collider. The site-specific design of the chosen alternative and associated mitigations will allow the project to proceed with minimal adverse impacts to the environment. DOE will proceed with this decision on a schedule matched to the appropriation of funds by Congress.

James D. Watkins,

Admiral, U.S. Navy (Retired).

[FR Doc. 91-3087 Filed 2-7-91; 8:45 am]

BILLING CODE 6450-01-M

#### Dravo Lime Co.; Financial Assistance Award Cooperative Agreement

**AGENCY:** U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

**ACTION:** Notice of noncompetitive financial assistance application for a cooperative agreement.

**SUMMARY:** Based upon a determination pursuant to 10 CFR 600.7(b) (2)(i)(B) the DOE Morgantown Energy Technology Center, gives notice of its plans to award a four year cost-shared cooperative agreement to the Dravo Lime Company, Research Center, Pittsburgh, PA 15225 in the approximate amount of \$4,600,000, approximately 25% of which will be funded by the Government.

**FOR FURTHER INFORMATION CONTACT:** Thomas L. Martin, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26507-0880, Telephone: (304) 291-4087, Grant No.: DE-FG21-90MC27400.

**SUPPLEMENTARY INFORMATION:** The DOE will fund approximately 25 percent of the allowable costs of the cooperative agreement. The pending award is based on an application for a research project entitled, "Land Application Uses for FGD By-Products" which was submitted by Dravo Lime Company. The general objective of the research project is to perform research to characterize management options for the solid by-products produced during dry flue gas desulfurization (FGD) operations at

utility power plants. These alternate management methods will have the potential to replace the current practice of dry landfill disposal.

Issued: January 31, 1991.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 91-3088 Filed 2-7-91; 8:45 am]

BILLING CODE 6450-01-M

#### South Carolina Energy Research and Development Center; Financial Assistance Award, (Grant)

**AGENCY:** U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

**ACTION:** Notice of noncompetitive financial assistance award.

**SUMMARY:** Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(B) the DOE, Morgantown Energy Technology Center, gives notice of its plans to award a 6-month grant to South Carolina Energy Research & Development Center, Clemson University, Clemson, South Carolina, in the approximate amount of \$52,000, approximately \$25,000 of which will be funded by the Government.

**FOR FURTHER INFORMATION CONTACT:** D. Denise Riggi, I-07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4241, Procurement Request No. 21-91MC28197.000.

**SUPPLEMENTARY INFORMATION:** The pending award is based on an application for co-sponsoring of a workshop related to gas turbine research technology, with the purpose of (1) framing the technological issues which must be resolved so that the potential contributions may be realized; (2) defining the research and development needs which are suitable for the types of research performed by educational institutions and which would support commercialization of advanced industrial gas turbines; and (3) fostering improved coordination and relevance of industry/educational/government research and development activities. The goals of the workshop are consistent with the DOE's mission to utilize domestic energy resources, and the DOE's support of this activity will enhance the public benefit by the earlier dissemination of information to the general public.

Issued: January 31, 1991.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 91-3089 Filed 2-7-91; 8:45 am]

BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Docket Nos. ER91-210-000, et al.]

#### Niagara Mohawk Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 1, 1991.

Take notice that the following filings have been made with the Commission:

##### 1. Niagara Mohawk Power Co.

[Docket No. ER91-210-000]

Take notice that on January 29, 1991, Niagara Mohawk Power Company ("Niagara Mohawk") tendered for filing pages 15 and 16 of an Agreement dated December 13, 1990 between Niagara Mohawk and Selkirk Cogen Partners II, L.P. ("Selkirk"). This Agreement and supporting cost data had originally been filed on January 7, 1991, but pages 15 and 16 were missing (through a photocopying error) from the copies received by the Secretary's office. Niagara Mohawk states that the omission of these two pages from the January 7, 1991 filing was inadvertent, and their submission to the Commission at this time does not modify, amend or otherwise constitute a change to the Agreement as executed by Niagara Mohawk and Selkirk or the supporting data submitted on January 7, 1991. Niagara Mohawk also renews all requests for the proposed effective data and for waiver that were made in the January 7th filing. Niagara Mohawk states that copies of this filing were served on Selkirk and the New York Public Service Commission.

*Comment date:* February 15, 1991, in accordance with Standard Paragraph E at the end of this notice.

##### 2. Zond Victory Garden Phase IV Development Corporation and ESI VG Limited Partnership

[Docket No. QF91-67-000]

On January 25, 1991, Zond Victory Garden Phase IV Development Corporation and ESI VG Limited Partnership (Applicants), c/o Zond System, Inc., P.O. Box 1910, 13000 Jameson Road, Tehachapi, CA 93561, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant



to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in the Tehachapi Mountains, Kern County, California, and will consist of 98 wind turbine generators with a total capacity of 22.05 MW and an undivided interest in certain transmission line and interconnection facilities to interconnect the facility with the Southern California Edison Company, at its Vincent Substation located in Los Angeles County.

The facility will be owned by a general partnership consisting of Zond Victory Garden Phase IV Development Corporation (ZVG) and ESI VG Limited Partnership (ESI). ZVG is a wholly owned subsidiary of Zond Systems, Inc. ESI is a limited partnership with ESI Victory, Inc., as its sole general partner, which is a wholly-owned subsidiary of the FPL Group Capital, Inc., which is a wholly-owned subsidiary of FPL Group, Inc., an electric utility holding company.

*Comment date:* Thirty days from publication in the *Federal Register*, in accordance with Standard Paragraph E at the end of this notice.

### 3. Cabot Power Corp.

[Docket No. QF91-61-000]

On January 23, 1991, Cabot Power Corporation (Applicant), of 200 State Street, 11th floor, Boston, Massachusetts 02109, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Island End Industrial Park, in the City of Everett, Massachusetts. The facility will consist of a combustion turbine generating unit, a heat recovery boiler and a condensing steam turbine generator. Thermal energy recovered from the condensate by means of a closed water loop that circulates between the condenser and the heat exchangers will be supplied to Distrigas of Massachusetts Corporation to vaporize liquefied natural gas. The net electric power production capacity of the facility will be 227.11 MW. The primary energy source will be natural gas. The facility is projected to be in operation by the first quarter of 1995.

*Comment date:* Thirty days from publication in the *Federal Register*, in accordance with Standard Paragraph E at the end of this notice.

### 4. Gulf States Utilities

[Docket No. ES91-15-000]

Take notice that on January 29, 1991, Gulf States Utilities Company ("Applicant") filed an application with the Federal Energy Regulatory Commission pursuant to section 204 of the Federal Power Act authorizing the Applicant to issue 6 million additional shares of Common Stock, to issue Promissory Notes for an aggregate of \$160 million, to issue \$18.25 Differential Notes for a formula principal amount, and to secure its obligations, and for authority to issue by negotiation and for exemption from competitive bidding requirements pursuant to §§ 34.2(b)(2) and 34.2(a)(1)(iv) and exemption from the requirements of § 34.2(b)(2)(i)(B). Issuance of these securities will satisfy the terms of a Settlement Agreement dated as of December 21, 1990, between the Applicant and the Southern Companies settling a four-year dispute involving power sales contracts. The Applicant will issue these securities to the Southern companies upon the effective date of the settlement which shall occur after satisfaction of all conditions to the settlement which include, among others, approval by the Federal Energy Regulatory Commission of the issuance of these securities, other actions by this Commission and by the Securities and Exchange Commission, and Action by the court in which litigation is pending.

*Comment date:* February 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

### Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 912-3030 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER91-230-000, *et al.*]

### Northern States Power Co., *et al.*; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 30, 1991.

Take notice that the following filings have been made with the Commission:

#### 1. Northern States Power Co.

[Docket No. ER91-230-000]

Take notice that on January 24, 1991, Northern States Power Company ("NSP") tendered for filing, the following supplements to its Rate Schedule FERC No. 415:

Supplement No. 8

Supplement No. 9

Such supplements are the "Sherco 3 Outlet Transmission Agreement between Northern States Power Company and United Minnesota Municipal Power Agency" ("UMMPA") and the Assignment of Contracts and Warranties" between UMMPA and the Southern Minnesota Municipal Power Agency ("SMMPA"). NSP states that the two agreements supplement the "Sherco 3 Outlet Transmission Agreement between Northern States Power Company and Southern Minnesota Municipal Power Agency" and the "Shared Transmission Agreement between Northern States Power Company and Southern Minnesota Municipal Power Agency," and other supplements previously approved by the Commission in Docket Nos. ER82-550-000, *et al.* Under the UMMPA Outlet Agreement, UMMPA has *inter alia*, certain transmission rights and obligations for use of NSP's transmission system. Under the Assignment, UMMPA assigned those rights and obligations to SMMPA. NSP states that it apparently neglected to previously file the two agreements for acceptance for filing as Supplements 8 and 9 to Rate Schedule FERC No. 415.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 2. PacifiCorp Electric Operations

[Docket No. ER91-224-000]

Take notice that PacifiCorp Electric Operations (PacifiCorp), on January 22, 1991, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Revised appendix 1 of the state of Idaho and Bonneville Power Administration's (Bonneville) determination of Average System Cost (ASC) for the state of Idaho (Bonneville's Docket No. 8-A3-90001) dated December 26, 1990. PacifiCorp's Revised Appendix 1 calculates the ASC



for the state of Idaho applicable to the exchange of power between Bonneville and PacifiCorp's Utah Division.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective May 10, 1990 which is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utilities Commission, and Bonneville's Direct Service Industrial Customers.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

### 3. Public Service Co. of New Mexico

[Docket No. ER91-227-000]

Take notice that on January 23, 1991, Public Service Company of New Mexico (PNM) tendered for filing Notices of Termination of Service Schedules D and I to the Interconnection Agreement Between PNM and the Incorporated County of Los Alamos, New Mexico (ICLA) (Exhibit A and Supplement 8 to PNM Rate Schedule FERC No. 60).

PNM requests that the applicable notice requirements be waived to permit Service Schedules D and I to be terminated effective as of December 31, 1990.

Copies of the filing have been served upon ICLA and the New Mexico Public Service Commission.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

### 4. Consumers Power Co.

[Docket No. ER91-225-000]

Take notice that on January 22, 1991, Consumers Power Company tendered for filing Supplement Nos. 4, 5 and 6 to the Transmission Service Agreement dated December 20, 1985 (Rate Schedule FERC No. 60) between Consumers Power Company and the Michigan Public Power Agency. The filed Supplements provide for the extension of the transmission agreement through December 31, 1991 and provide for a new delivery point at Portland, Michigan.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

### 5. Hardee Power Partners Limited

[Docket No. ES91-14-000]

Take notice that on January 25, 1991, Hardee Power Partners Limited ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), pursuant to Section 204 of the Federal Power Act, for authorization to issue a floating rate, non-recourse construction loan facility

in the maximum amount of \$250 million on or about March 29, 1991. In connection with the construction loan, Hardee Power may issue short-term commercial paper with the credit support of the construction loan facility to repay outstanding construction loan obligations or fund construction in lieu of drawing on the construction loan facility. Such commercial paper will be issued in an aggregate amount not to exceed \$250 million. Hardee Power also seeks to obtain an option to convert the construction loan in the maximum amount of \$194 million. Hardee Power would use the proceeds of both loans to fund the development, construction and operation of a 295 MW gas-fired generation facility to be located in Polk and Hardee Counties, Florida, including the cost of turnkey construction, financing, environmental facilities, permits and audits, insurance, construction of a natural gas pipeline lateral, spare parts, working capital and funding of general, SCR and pipeline contingency funds.

*Comment date:* February 25, 1991, in accordance with Standard Paragraph E at the end of this notice.

### 6. PSI Energy, Inc.

[Docket No. ER(91-229-000)]

Take notice that PSI Energy, Inc. ("PSI"), formerly known as Public Service Company of Indiana, Inc., on January 25, 1991, tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 1 (12th Revision); FERC Electric Tariff, Original Volume No. 2 (10th Revision) and Electric Rate Schedules FERC Nos. 234 and 236. Such changes in rates are the result of an uncontested two-step rate decrease negotiated between PSI and the following parties:

1. Cities and Towns (meaning the municipal utilities who are direct customers of PSI).
2. City of Logansport, Indiana.
3. Jackson County Rural Electric Membership Corporation.
4. Indiana Municipal Power Agency.

The proposed changes would provide a two-step cumulative annual decrease in revenues of \$5.2 million based upon the twelve-month period ending December 31, 1988.

As part of the negotiations between the parties, PSI has requested the following:

1. Waiver of the notice requirements under § 35.3 of the Commission's Regulations under the Federal Power Act and an effective date of January 1, 1991, without suspension, for the first step of the rate decrease.

2. Waiver of the notice requirements under Section 35.3 of the Commission's Regulations under the Federal Power Act and an effective date of January 1, 1992, without suspension, for the second step of the rate decrease.

3. Waiver of the requirements under § 35.13 of the Commission's Regulations under the Federal Power Act not specifically addressed or complied with in the filing.

Copies of the filing were served upon the Indiana Utility Regulatory Commission, the City of Logansport, Indiana, Jackson County Rural Electric Membership Corporation, the Indiana Municipal Power Agency, and the Indiana Municipalities of Brooklyn, Coatesville, Dublin, Dunreith, Hagerstown, Knightstown, Lewisville, Montezuma, New Ross, Pittsboro, Rockville, South Whiteley, Spiceland, Straughn, Thorntown, Veedersburg and Williamsport.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

### 7. The Montana Power Co.

[Docket No. ER91-228-000]

Take notice that on January 24, 1991, the Montana Power Company ("Montana") tendered for filing a revised appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement ("Agreement") between Montana and the Bonneville Power Administration ("BPA").

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests that the rate has an effective date of January 2, 1991, and, therefore, requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

*Comment date:* February 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

### Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of



Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 91-3031 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-1007-000, et al.]

### El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

#### 1. El Paso Natural Gas Co.

[Docket No. CP91-1007-000]

January 29, 1991.

Take notice that on January 24, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-1007-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of NGC Transportation, Inc. (NGC), under El Paso's blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to transport up to 154,500 MMBtu of natural gas per day for NGC. El Paso states that construction of facilities would not be required to provide the proposed service.

El Paso states that the maximum day, average day, and annual transportation volumes would be approximately 154,500 MMBtu, 154,500 MMBtu and 56,392,500 MMBtu of natural gas respectively.

El Paso advises that service under § 284.223(a) commenced December 15, 1990, as reported in Docket No. ST91-6223-000.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

#### 2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP91-1011-000]

January 29, 1991.

Take notice that on January 24, 1991, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-1011-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Energy Development Corporation, a producer, under the blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that, pursuant to an agreement dated December 22, 1990, under its Rate Schedule IY-1, it proposes to transport up to 15,000 MMBtu per day equivalent of natural gas. Northern indicates that the gas would be transported from Offshore La. and would be redelivered in Louisiana. Northern further indicates that it would transport 11,250 MMBtu on an average day and 5,475,000 MMBtu annually.

Northern advises that service under § 284.223(a) commenced December 22, 1990, as reported in Docket No. ST91-6389-000.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

#### 3. Transcontinental Gas Pipe Line Corp.

[Docket No. CP91-1009-000]

January 29, 1991.

Take notice that on January 24, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91-1009-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Amerada Hess Corporation (Amerada), under Transco's blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Transco proposes to transport, on an interruptible basis, up to 700,000 dt equivalent of natural gas per day of Amerada. Transco states that construction of facilities would not be required to provide the proposed service.

Transco states that the maximum day, average day, and annual transportation volumes would be approximately 700,000 dt, 700,000 dt and 255,500,000 dt equivalent of natural gas respectively.

Transco advises that service under § 284.223(a) commenced December 1, 1990, as reported in Docket No. ST91-6144-000.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

#### 4. Columbia Gas Transmission Corp., et al.

[Docket Nos. CP91-1030-000 and CP91-1031-000]

January 29, 1991.

Take notice that the above referenced company (Applicant) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under a blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>1</sup>

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>1</sup> These prior notice requests are not consolidated.



Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> avg. annual	Points of		Start up date, rate schedule	Related, <sup>2</sup> dockets
				Receipt	Delivery		
CP91-1030-000 1-25-91	Columbia Gas Transmission Corporation, 1700 MacCorkle, Avenue SE., Charleston, WV 25314.	Mike-Sells Potato Chip Company.	400 320 146,000	KY, OH, WV, PA, NY.	OH .....	12-1-90, ITS.....	CP86-240-000 ST91-5996-000
CP91-1031-000 1-25-91	Columbia Gas Transmission Corporation, 1700 MacCorkle, Avenue SE., Charleston, WV 25314.	Morris Bean and Company.	300 240 109, 500	KY, OH, WV, PA, NY.	OH .....	12-1-90, ITS.....	CP86-240-000 ST91-5995-000

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.

<sup>2</sup> The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

### 5. Tennessee Gas Pipeline Co. and Transcontinental Gas Pipe Line Corp.

[Docket No. CP91-983-000 and CP91-984-000]

January 29, 1991.

Take notice that on January 22, 1991, Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, (Applicants) filed prior notice requests with the Commission in the above-referenced dockets pursuant

to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket Nos. CP87-115-000 and CP88-328-000, respectively, pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.<sup>2</sup>

Information applicable to each

<sup>2</sup>These prior notice requests are not consolidated.

transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day and annual volumes; the service initiation date; and related ST docket number of the 120-day transaction under § 284.223 of the Commission's Regulations, has been provided by Applicants as summarized in the attached appendix.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No.	Shipper name (type)	Peak day, average day, annual dekatherms	Receipt points <sup>1</sup>	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-983-000	O & R Energy, Inc. (marketer).	2,073 2,073 756,645	JOLA.....	PA .....	11-1-90, FT-A, Firm.	ST91-6338 11-6-90
CP91-984-000	Enron Gas Marketing, Inc. (marketer).	1,100,000 75,000 27,375,000	LA, OLA, MS, PA, TX, OTX.	AL, LA, OLA, MD, NJ, TX.	5-3-90, IT, Interruptible.	ST91-6218 11-20-90

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.

### 6. Viking Gas Transmission Co.

[Docket No. CP1-1010-000]

January 29, 1991.

Take notice that on January 24, 1991, Viking Gas Transmission Company (Viking), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91-1010-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Koch Hydrocarbon Company (Koch), a marketer of natural gas, under Viking's blanket certificate issued in Docket No. CP91-273-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Viking proposes to transport, on an interruptible basis, up to 100,000 dt

equivalent of natural gas on a peak day, 100,000 dt equivalent on an average day and 36,500,000 dt equivalent on an annual basis for Koch. Viking states that it would perform the transportation service for Koch under Viking's Rate Schedule IT-2. Viking indicates that it would receive the gas at designated points on its system in Wisconsin, Minnesota and North Dakota, and would deliver equivalent volumes of gas for Koch's account at designated points in Wisconsin, Minnesota and North Dakota.

It is asserted that the transportation service commenced December 15, 1990, under the self-implementing authorization of § 284.223 of the Commission's Regulations, as reported in Docket No. ST91-6384. It is further

asserted that existing facilities would be used to effect the transportation service and that no construction of additional facilities would be required.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

### 7. Conoco Inc.

[Docket No. CI88-382-001]

January 29, 1991.

Take notice that on January 17, 1991, Conoco Inc. (Conoco) of P.O. Box 2197, CH-1134, Houston, Texas 77252, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its unlimited-term blanket certificate with pregranted



abandonment previously issued by the Commission in Docket No. CI88-382-000 to include authorization for the sale for resale in interstate commerce of all available sources of natural gas, both domestic and foreign and from first and resale sellers, including, but not limited to, imported natural gas, liquified natural gas and gas purchased from interstate pipelines including such interstate pipeline gas sold under any discount interruptible sales programs (ISS gas) or similar programs, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* February 19, 1991, in accordance with Standard Paragraph J at the end of this notice.

#### 8. Altresco Pittsfield, L.P. Altresco Inc.

[Docket No. CI91-38-000]

January 29, 1991.

Take notice that on January 16, 1991, Altresco Pittsfield, L.P. and Altresco Inc. (Altresco) c/o Altresco Financial, Inc., 600 South Cherry Street, Suite 1200, Denver, Colorado 80222, filed an application pursuant to sections 4 and 7

of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment to authorize sales for resale in interstate commerce of gas still subject to the jurisdiction of the Commission pursuant to the NGA, including gas Altresco purchases from Canadian producers, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* February 19, 1991, in accordance with Standard Paragraph J at the end of the notice.

#### 9. Texas Gas Transmission Corp. and Transcontinental Gas Pipe Line Corp.

[Docket Nos. CP91-1032-000, CP91-1033-000, CP91-1034-000 and CP91-1035-000]

January 29, 1991.

Take notice that on January 28, 1991, Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301, and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, (Applicants) filed in the above-referenced dockets prior notice requests

pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-686-000 and Docket No. CP88-328-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>3</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>3</sup> These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt <sup>1</sup> points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-1032-000 (1-28-91)	Excel Gas Marketing, Inc.	150,000 150,000 54,750,000	Various .....	LA .....	6-20-89, IT, Interruptible.	ST91-6430-000, 12-22-90
CP91-1033-000. (1-28-91)	Mobil Natural Gas Inc. ....	10,100 10,100 3,686,500	OTX .....	OTX .....	4-3-90, IT, Interruptible.	ST91-6289-000, 1-5-91
CP91-1034-000. (1-28-91)	Mobil Natural Gas Inc. ....	14,200 14,200 5,183,000	OTX .....	OTX .....	4-3-90, IT, Interruptible.	ST91-6288-000, 1-1-91
CP91-1035-000. (1-28-91)	Enmark Gas Corporation (Intrastate Pipeline).	90,000 90,000 <sup>2</sup> 32,850,000	PA .....	MD, NJ, PA .....	12-7-90, IT, Interruptible.	ST91-6401-000, 12-27-90.

<sup>1</sup> Offshore Texas is shown as OTX.

<sup>2</sup> Transco's quantities are in dekatherms.

#### 10. Southern Natural Gas Co.

[Docket Nos. CP91-987-000; CP91-988-000; CP91-989-000; CP91-990-000]

January 29, 1991.

Take notice that on January 23, 1991, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in the respective dockets prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No.

CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>4</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket

<sup>4</sup> These prior notice requests are not consolidated.

numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph G at the end of this Notice.



Docket Number (date filed)	Shipper name	Peak day <sup>1</sup> average, annual	Points of		Start up date rate schedule	Related dockets <sup>2</sup>
			Receipt	Delivery		
CP91-987-000 1-23-91	Endevco Oil and Gas Co.	30,000 10,000 3,650,000	On TX, Off TX, On LA, Off LA, MS, AL, GA.	GA, TN .....	12-20-90, IT .....	ST91-6303-000.
CP91-988-000 1-23-91	Kentucky-Tennessee Clay Company.	500 200 73,000	On TX, Off TX, On LA, Off LA, MS, AL, GA.	SC .....	12-24-90, IT .....	ST91-6297-000.
CP91-989-000 1-23-91	Howell Gas Management Company.	100,000 10,000 3,650,000	On TX, Off TX, On LA, Off LA, MS, AL, GA.	GA, TN, SC .....	12-12-90, IT .....	ST91-6301-000.
CP91-990-000 1-23-91	Texican Natural Gas Company.	50,000 32,876 12,000,000	On TX, Off TX, On LA, Off LA, MS, AL, GA.	GA, TN .....	12-23-90, IT .....	ST91-6300-000.

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.

<sup>2</sup> The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

### 11. Panhandle Eastern Pipe Line Company.

[Docket No. CP91-1018-000]

January 30, 1991.

Take notice that on January 24, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed an application with the Commission in Docket No. CP91-1018-000 pursuant to section 7(b) of the Natural Gas Act (NGA), requesting permission and approval to partially abandon the interruptible transportation service it provides for General Motors Corporation (GM), a direct industrial customer, all as more fully set forth in the application which is open to public inspection.

Panhandle states that a Commission order issued June 12, 1952, in Docket No. G-1714 (11 FPC 641) authorized it, *inter alia*, to transport and deliver up to 3,500 Mcf of natural gas per day to GM's Defiance, Ohio, delivery point. The Commission subsequently granted Panhandle authorization on August 27, 1969, in Docket No. CP69-328 (42 FPC

590) to increase its daily natural gas deliveries at the Defiance delivery point to 15,000 Mcf. Panhandle proposes to abandon its daily interruptible transportation service for GM at the Defiance delivery point, pursuant to their January 1, 1990, transportation agreement. No facilities would be affected by Panhandle's proposed abandonment.

*Comment date:* February 20, 1991, in accordance with Standard Paragraph F at the end of this notice.

### 12. High Island Offshore System

[Docket Nos. CP91-1000-000; CP91-1001-000; CP91-1002-000; CP91-1003-000; CP91-1004-000; CP91-1005-000]

January 30, 1991.

Take notice that High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its

blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89-82-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>5</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>5</sup> These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day, annual Mcf	Receipt <sup>1</sup> points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1000-000 (01-23-91)	Northridge Petroleum Marketing U.S., Inc. (Marketer).	2,900,000 2,900,000 1,058,500,000	OTX, OLA.....	OTX, OLA.....	04-01-90, IT, Interruptible.	ST91-5936-000, 11-30-90.
CP91-1001-000 (01-23-91)	Amerada Hess Corporation (Producer).	250,000 250,000 91,250,000	OTX, OLA.....	OTX, OLA.....	11-01-90, IT, Interruptible.	ST91-5935-000, 11-30-90.
CP91-1002-000 (01-23-91)	Fuel Services Group (Marketer).	15,000 15,000 5,475,000	OTX, OLA.....	OTX, OLA.....	04-01-90, IT, Interruptible.	ST91-5937-000, 11-30-90.
CP91-1003-000 (01-23-91)	Southern Gas Company, Inc. (Producer).	90,000 90,000 32,850,000	OTX, OLA.....	OTX, OLA.....	04-01-90, IT, Interruptible.	ST91-5938-000, 12-04-90.
CP91-1004-000 (01-23-91)	The Polaris Corporation (Marketer).	38,600 38,600 14,089,000	OTX, OLA.....	OTX, OLA.....	04-01-90, IT, Interruptible.	ST91-5933-000, 11-29-90.
CP91-1005-000 (01-23-91)	Shell Gas Trading Company (Marketer).	10,000 10,000 3,650,000	OTX.....	OTX, OLA.....	04-01-90, IT, Interruptible.	ST91-5934-000, 12-01-90.

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.



**13. Northern Natural Gas Co., Division of Enron Corp.**

[Docket Nos. CP91-1037-000; CP91-1038-000; CP91-1039-000]

January 31, 1991.

Take notice that on January 29, 1991, Northern Natural Gas Company, Division of Enron Corp. (Applicant), P.O. Box 1188, Houston, Texas 77251-1188, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of

various shippers under its blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>6</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation

<sup>6</sup> These prior notice requests are not consolidated.

service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name	Peak day, <sup>1</sup> avg, annual	Points of <sup>2</sup>		Start up date, rate schedule, service type	Related docket, <sup>3</sup> contract date
			Receipt	Delivery		
CP91-1037-000 (1-29-91)	Western Gas Marketing USA, Ltd.	5,000 3,750 1,825,000	IA, ND.....	IA.....	12-1-90, IT-1, Interruptible.	ST91-6047-000, 12-1-90.
CP91-1038-000 (1-29-91)	Eastex Hydrocarbons, Inc.	100,000 75,000 36,500,000	OLA, OTX.....	IA, KS, TX.....	12-7-90, IT-1, Interruptible.	ST91-6255-000, 12-7-90.
CP91-1039-000 (1-29-90)	GasTrak Corporation.....	100,000 75,000 36,500,000	IA, KS, MN, NE, NM, OK, SD, TX, WI.	IA, IL, KS, MI, MN, NE, NM, OK, SD, TX, WI.	12-18-90, IT-1, Interruptible.	ST91-6409-000, 12-18-90.

<sup>1</sup> Quantities are shown in MMBtu.

<sup>2</sup> Offshore Louisiana and Offshore Texas are shown as OLA and OTX.

<sup>3</sup> If an ST docket is shown, 120-day transportation service was reported in it.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within

the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

**Standard Paragraph**

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3034 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M



[Docket Nos. CP91-1047-000, et al.]

**Northwest Pipeline Corp., et al.;  
Natural gas certificate filings**

February 1, 1991.

Take notice that the following filings have been made with the Commission:

**1. Northwest Pipeline Corp.**

[Docket No. CP91-1047-000]

Take notice that on January 29, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP91-1047-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for approvals to: (1) Abandon existing facilities at the North Bend Meter Station, (2) construct and operate upgraded facilities at the North Bend Meter Station, (3) reallocate part of the existing maximum daily delivery obligations (MDDO) for firm service for Washington Natural Gas Company (Washington Natural) among various delivery points on Washington Natural's system, and (4) decrease the authorized minimum delivery pressure at the Covington delivery point to Washington Natural; under Northwest's blanket certificate issued in Docket No. CP82-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest states that the existing North Bend Meter Station, located adjacent to Northwest's mainline in King County, Washington, was constructed by Northwest's predecessor, El Paso Natural Company, under certificate authorization received in Docket No. CP65-400 (34 FPC 877). Northwest indicates that the existing North Bend Meter Station consists of two 3-inch orifice meters, two 1-inch regulators, a line heater, 2-inch taps into the mainline and mainline loop and associated valves and piping and has a

design capacity of approximately 3,480 Mcf per day at a delivery pressure of 400 psig.

Northwest further states that Washington Natural requested that Northwest upgrade the existing North Bend Meter Station to deliver a maximum of 4,500 Dth per day of natural gas at a minimum delivery pressure of 400 psig. This upgrade is necessary to facilitate service to Washington Natural's growing market in the North Bend area, it is stated.

To accommodate Washington Natural's request, Northwest states that the existing two 1-inch regulators and one of the 3-inch orifice meters would be removed and four 2-inch monitor regulators and a 4-inch turbine meter would be installed as replacement facilities. Also, it is indicated that a 3-inch flange filter would be added between the heater and regulators to provide protection for the turbine meter. The total cost of upgrading North Bend Meter Station is estimated to be approximately \$29,910.

Northwest states that it presently is authorized to provide firm Rate Schedule ODL-1 gas sales service and firm Rate Schedule TF-1 transportation service to Washington Natural at various delivery points, including the North Bend delivery point, with Northwest's combined firm sales and transportation delivery obligation at any given delivery point to Washington Natural limited to the MDDO set forth for such point on Exhibit A of the ODL-1 Service Agreement.

Northwest also states that Washington Natural requested that Northwest reallocate volumes among various delivery points on its system, including the North Bend Meter Station. Northwest states that it has revised Exhibit A to Washington Natural's ODL-1 Service Agreement, dated April 5, 1989, to reflect those requested changes.

Northwest further states that in Docket No. CP90-1725-000 it received

authorization to increase the maximum delivery pressure at the Covington Meter Station, located in King County, Washington, from 300 psig to 400 psig. However, Northwest states that the authorized 400 psig delivery pressure was never made effective and requests approval to reduce the authorized maximum delivery pressure at the Covington Meter Station from 400 psig to 300 psig.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

**2. Trunkline Gas Co.**

[Docket Nos. CP91-993-000; CP91-994-000; CP91-995-000]

Take notice that Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.23 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>1</sup>

Information applicable to each transaction, including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under Section 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>1</sup> These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day average day annual Mcf	Receipt points <sup>1</sup>	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-993-000 (1-23-91)	Arcadian Corporation (end-user).	20,000 20,000 7,300,000	LA, IL, TN, TX, OLA, OTX.	TN.....	12-1-90, PT Firm.....	ST91-6175-000, 12-1-90.
CP91-994-000 (1-23-91)	Entrade Corporation (marketer).	50,000 40,000 18,250,000	LA, IL, TN, TX, OLA, OTX.	LA.....	6-7-90, PT, Interruptible.	ST91-6173-000, 11-29-90.
CP91-995-000 (1-23-91)	Anadarko Trading Company (marketer).	50,000 50,000 18,250,000	OLA.....	OLA.....	9-25-89, PT, Interruptible.	ST91-6170-000, 12-1-90.

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.



**3. Natural Gas Pipeline Co. of America**

(Dockets Nos. CP91-1059-000; CP91-1060-000; CP91-1061-000; CP91-1062-000; CP91-1063-000; CP91-1064-000; CP91-1065-000)

Take notice that Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of

various shippers under its blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>2</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation

<sup>2</sup> These prior notice requests are not consolidated.

service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (dated filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points <sup>1</sup>	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-1059-000 (1-30-91)	The Peoples Gas Light and Coke Company (LDC).	30,000 30,000 10,950,000	TX, IL, AR.....	IL, TX.....	10-8-90, FTS, Firm.	ST91-5950, 12-1-90.
CP91-1060-000 (1-30-91)	Bethlehem Steel Corporation (End-user).	4,000 4,000 1,460,000	LA, TX, IL, AR.....	IL, TX.....	10-31-90, FTS, Firm.	ST91-5880, 12-1-90.
CP91-1061-000 (1-30-91)	Pacific Enterprises Oil Company (USA) (Producer).	5,000 3,000 1,095,000	Various.....	Various.....	8-20-90, ITS, Interruptible.	ST91-5887, 12-1-90.
CP91-1062-000 (1-30-91)	Texaco Gas Marketing Inc. (Marketer).	100,000 50,000 18,250,000	Various.....	Various.....	11-27-90, ITS, Interruptible.	ST91-5881, 12-3-90.
CP91-1063-000 (1-30-91)	Tejas Power Corporation (Marketer).	100,000 50,000 18,250,000	Various.....	Various.....	9-27-90, ITS, Interruptible.	ST91-5875, 11-28-90.
CP91-1064-000 (1-30-91)	Utrude Gas Company (Marketer).	22,500 22,500 8,212,500	TX.....	LA.....	11-21-90, FTS, Firm.	ST91-5885, 12-1-90.
CP91-1065-000 (1-30-91)	Tex/Con Gas Marketing Company (Marketer).	12,963 12,963 4,731,495	OK.....	OK.....	10-29-90, FTS, Firm.	ST91-5883, 12-1-90.

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.

**4. ANR Pipeline Co.**

[Docket Nos. CP91-1048-000;<sup>3</sup> CP91-1049-000; CP91-1050-000; CP91-1051-000]

Take notice that on January 29, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport

<sup>3</sup> These prior notice requests are not consolidated.

natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the date of the transportation agreement between Natural and the respective shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes,

and the docket number and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by ANR is included in the attached appendix.

ANR alleges that it would provide the proposed service for each shipper under an executed transportation service agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. trans. agree.	Applicant	Shipper name	Peak day <sup>1</sup> average, annual	Points of		Start up date, rate schedule, service type	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-1048-000 11-20-90	ANR.....	Alto Dairy Co-op..	750 750 273,750	LA & Off LA.....	WI.....	12-1-90, FTS-1, Firm.	ST91-6088-000.
CP91-1049-000 11-21-90	ANR.....	Granulation Technology, Inc.	1,500 1,500 547,500	LA & Off LA.....	WI.....	12-1-90, FTS-1, Firm.	ST91-6048-000.
CP91-1049-000 10-18-90	ANR.....	Fina Natural Gas Company.	50,000 50,000 18,250,000	TX & Off LA & TX.....	Off LA.....	12-1-90, ITS, Interruptible.	ST91-6090-000.



Docket No. trans. agree.	Applicant	Shipper name	Peak day <sup>1</sup> average, annual	Points of		Start up date, rate schedule, service type	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-1051-000 8-14-90	ANR.....	Union Texas Petroleum Corp.	100,000 100,000 36,500,000	Various Existing Points.	IA, IL, IN, TN, & OH.	12-1-90, ITS, Interruptible.	ST91-6044-000.

<sup>1</sup> Quantities are shown in Dth.<sup>2</sup> The ST docket indicates that 120-day transportation service was initiated under Section 284.223(a) of the Commission's Regulations.**5. Shell Offshore Inc., et al.**[Docket No. CI71-679-000,<sup>4</sup> et al.]

Take notice that each of the

<sup>4</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective

applications which are on file with the Commission and open to public inspection.

*Comment date:* February 20, 1991, in accordance with Standard Paragraph J at the end of the notice.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI71-679-000 E 11-1-90	Shell Offshore, Inc., P.O. Box 4480, Houston, TX 77210.	Trunkline Gas Company, Ship Shoal Block 293, Offshore Louisiana.	Acreage acquired 9-1-87 from Mobil Oil Exploration & Producing Southeast Inc. and Mobil Exploration and Producing North America Inc.
CI91-17-000 E 12-7-90	Marathon Oil Company, P.O. Box 3128, Houston, TX 77253.	Natural Gas Pipeline Company of America, Indian Basin Field, Eddy County, New Mexico.	Acreage acquired 1-1-90 from Maralo Inc. and the Lowe Foundation.
CI91-44-000 (G-10143) (G-20020) B 1-22-91	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253-3725.	Tennessee Gas Pipeline Company, West Delta Block 53, Plaquemines Parish, Louisiana, and South Timbalier Block 23, Offshore Louisiana.	Acreage acquired 10-1-87 from Atlantic Richfield Company.
CI91-46-000 E 1-22-91	OXY USA, Inc., P.O. Box 300, Tulsa, OK 74102.	El Paso Natural Gas Company, Cawley A #1, Tracy A #1 and Elizondo Federal A #2-Y, Burton Flats Field, Eddy County, New Mexico.	Acreage acquired 1-1-89 from Claremont Corporation.
CI91-47-000 E 1-22-91	OXY USA, Inc.....	El Paso Natural Gas Company, Cawley A #1, Tracy A #1 and Elizondo Federal A #2-Y, Burton Flats Field, Eddy County, New Mexico.	Acreage acquired 1-1-89 from Patoil Corporation.
CI91-48-000 E 1-22-91	OXY USA, Inc.....	El Paso Natural Gas Company, Elizondo Federal A #3 and Elizondo Federal A #4 wells, Burton Flats Field, Eddy County, New Mexico.	Acreage acquired 1-1-89 from Patoil Corporation.
CI91-49-000 E 1-22-91	OXY USA, Inc.....	Natural Gas Pipeline Company of America, CDM A #1, Burton Flats Field, Eddy County, New Mexico.	Acreage acquired 1-1-89 from Patoil Corporation.

Filing code: A—Initial service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial succession.

**6. Williams Natural Gas Co.**

[Docket No. CP91-1016-000]

Take notice that on January 24, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-1016-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act for authorization to abandon by reclaim and in place approximately 19 miles of 12-inch lateral pipeline, and to replace and relocate the Union Gas System (Union Gas) Niotaze and Sedan town borders, all located in Chautauqua County, Kansas, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the

request on file with the Commission and open to public inspection.

It is stated that replacing and relocating the Niotaze and Sedan town borders would allow WNG to abandon approximately 19 miles of 12-inch lateral pipelines. It is also stated that the projected volume of delivery through the replacement facilities is not expected to exceed the volumes currently being delivered of 4,324 Mcf per year with a maximum peak day of 60 Mcf at Niotaze and 173,620 Mcf per year with a maximum peak day of 2,281 Mcf at Sedan. The estimated cost of construction is \$190,050 and the costs associated with the abandonments are \$26,510 with an estimated salvage value of \$6,520.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

**7. Transcontinental Gas Pipe Line Corp.**

[Docket No. CP91-1036-000]

**Southern Natural Gas Co.**

[Docket No. CP91-1041-000]

**Southern Natural Gas Co.**

[Docket No. CP91-1042-000]



**Southern Natural Gas Co.**

[Docket No. CP91-1043-000]

**Southern Natural Gas Co.**

[Docket No. CP91-1044-000]

**Southern Natural Gas Co.**

[Docket No. CP91-1045-000]

**Southern Natural Gas Co.**

[Docket No. CP91-1046-000]

Take notice that Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, and Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563,

(Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act of authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-328-000 and Docket No. CP88-316-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>5</sup>

<sup>5</sup> These prior notice requests are not consolidated.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Mcf	Receipt points <sup>1</sup>	Delivery points	Contract date, rate schedule service type	related docket, start-up date
CP91-1036-000 (1-28-91)	Ultramar Oil and Gas Limited (Producer).	2 6,000 6,000 2,190,000	OLA .....	OLA	11-28-90, IT, Interruptible.	ST91-6402, 12-14-90
CP91-1041-000 (1-29-91)	City of Sylvania, Georgia (Local Distribution Company).	160 160 58,400	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6370, 1-1-91
CP91-1042-000 (1-29-91)	City of Waynesboro, Georgia (Local Distribution Company).	288 288 105,120	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6367, 1-1-91
CP91-1043-000 (1-29-91)	City of Sparta, Georgia (Local Distribution Company).	123 123 44,895	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6371, 1-1-91
CP91-1044-000 (1-29-91)	City of Statesboro, Georgia (Local Distribution Company).	2,379 2,379 868,335	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6360, 1-1-91
CP91-1045-000 (1-29-91)	City of Thomson, Georgia (Local Distribution Company).	930 930 339,450	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6374, 1-1-91
CP91-1046-000 (1-29-91)	City of Trion, Georgia (Local Distribution Company).	239 239 87,235	OLA, OTX, LA, TX, MS, AL.	GA	1-1-91, FT, Firm.....	ST91-6355, 1-1-91

<sup>1</sup> Offshore Louisiana and Offshore Texas are shown as OLA and OTX.

<sup>2</sup> Volumes for CP91-1036-000 measured in dt equivalent.

**8. United Gas Pipeline Co.**

[Docket No. CP91-1023-000]

**United Gas Pipeline Co.**

[Docket No. CP91-1024-000]

**United Gas Pipeline Co.**

[Docket No. CP91-1025-000]

**United Gas Pipeline Co.**

[Docket No. CP91-1026-000]

Take notice that the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the

Natural Gas Act for authorization to transport natural gas on behalf of various shippers under a blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>6</sup>

Information applicable to each transaction including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the

<sup>6</sup> These prior notice requests are not consolidated.

docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.



Docket number (date filed)	Applicant	Shipper name	Peak day <sup>1</sup> average annual	Points of		Start Up Date Rate Schedule	Related <sup>2</sup> Dockets
				Receipt	Delivery		
CP91-1023-000 1-25-91	United Gas Pipe Line Corporation, P.O. Box 1478, Houston, TX 77251-1478.	MIDCon Marketing Company.	51,500 51 500 18,797,000	LA .....	LA .....	ITS, Interruptible, 12-14-90.	CP88-6-000, ST91-6272-000.
CP91-1024-000 1-25-91	United Gas Pipe Line Corporation, P.O. Box 1478, Houston, TX 77251-1478.	Pennzoil Gas Marketing Company.	13,647 13 647 4,981,000	LA .....	MS FL .....	FTS, Firm 12-8-90	CP88-6-000, ST91-6270-000.
CP91-1025-000 1-25-91	United Gas Pipe Line Corporation, P.O. Box 1478, Houston, TX 77251-1478.	Stellar Gas Marketing Company.	515,000 515 000 18,795,000	LA TX .....	LA MS .....	ITS, Interruptible, 12-14-90.	CP88-6-000, ST91-6271-000.
CP91-1026-000 1-25-91	United Gas Pipe Line Corporation, P.O. Box 1478, Houston, Tx 77251-1478.	Union Texas Petroleum Corporation.	14,265 14 265 5,206,725	LA, MS .....	LA, AI, MS, FL, AL .....	ITS, Interruptible, 12-14-90.	CP88-6-000, ST91-6287-000.

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.

<sup>2</sup> The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

## 9. Arkla Energy Resources a division of Arkla, Inc.

[Docket No. CP91-1006-000]

Take notice that on January 23, 1991, Arkla Energy Resources (Arkla), a division of Arkla, Inc., Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP91-1006-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act for authorization, under its blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, to construct and operate certain facilities in Oklahoma, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Arkla specifically proposes to construct and operate two sales taps and related facilities in Oklahoma for the delivery of gas to Arkansas Louisiana Gas Company for resale to domestic customers.

Arkla states that the gas would be delivered from its general system supply, which it states is adequate to provide the service.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

## 10. Williams Natural Gas Co.

[Docket No. CP91-978-000]

Take notice that on January 22, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-978-000 a request pursuant to §§ 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act for authorization to utilize facilities originally installed for the delivery of

311 transportation gas for other purposes, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to utilize the 311 facilities installed to delivery transportation gas to KPL Gas Service for Flexel, Inc. in Shawnee County, Kansas for any purpose. WNG states that the cost to construct the facilities was \$7,575 which was paid from funds on hand.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

## 11. ANR Pipeline Co.

[Docket No. CP91-1069-000]

Take notice that on January 30, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91-1069-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Enron Gas Marketing, Inc., a marketer, under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR states that, pursuant to an agreement dated November 15, 1990, under its Rate Schedule FTS-1, it

proposes to transport up to 15,000 Dth per day equivalent of natural gas. ANR indicates that it would transport 15,000 Dth on an average day and 5,475,000 Dth annually. ANR further indicates that the gas would be transported from a receipt point located Offshore Louisiana to a delivery point in Louisiana.

ANR advises that service under § 284.223(a) commenced December 1, 1990, as reported in Docket No. ST91-6093-000.

*Comment date:* March 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,  
Secretary.

## Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North



Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3029 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA91-6-000]

**Anabaco Operating Co. and Thomas N. Berry and Co.; Petition for Adjustment**

February 1, 1991.

Take notice that on January 23, 1991, Anabaco Operating Company (Anabaco) and Thomas N. Berry & Company (Berry) filed with the Federal Energy Regulatory Commission (Commission) a petition for adjustment under section 502(C) of the Natural Gas Policy Act and part 385 (subpart K) of the Commission's Regulations. Anabaco and Berry request that the Commission grant a waiver of the filing requirements of § 271.805 of the Commission's regulations to permit production from the Evans No. 1 Well located in Beaver County, Oklahoma to qualify as stripper well gas under NGPA section 108, during specified periods noted in the petition.

Any person desiring to be heard or protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 22, 1991. All protests filed will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Copies of this petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3033 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C191-52-000]

**The Providence Gas Co. and Prov Energy Investments, Ltd.; Application for a Blanket Certificate With Pregranted Abandonment**

February 4, 1991.

Take notice that on January 29, 1991, The Providence Gas Company (Providence), a local distribution company, and Prov Energy Investments, Ltd. (Prov Energy) (together Applicants) of 100 Weybosset Street, Providence, Rhode Island 02903, filed an application pursuant to section 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment to authorize the sales for resale in interstate commerce of (1) all NGPA categories of natural gas subject to the Commission's jurisdiction under the NGA, (2) natural gas purchased from interstate and intrastate pipelines and from local distribution companies and (3) imported natural gas and liquefied natural gas. Providence also requests that the Commission state that the validity of Providence's exclusion under Section 1(c) of the NGA is not impaired by activity conducted under the authorization requested, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In their application, Applicants note that they have entered into an agreement with New York State Electric and Gas Company (NYSEG) to provide NYSEG with gas supplies which Prov Energy will purchase from Providence and sell to NYSEG. The gas will be delivered directly to NYSEG from Algonquin Gas Transmission Company's (Algonquin) system supply under authorization which has been requested by Algonquin in its pending application in Docket No. CP89-2101. Applicants are seeking the requested blanket authorization to authorize this and similar transactions.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3032 Filed 2-7-91; 8:45 am]

BILLING CODE 6717-01-M

**Office of Fossil Energy**

[FE Docket No. 91-01-NG]

**Mock Resources, Inc.; Application for Blanket Authorization to Import Natural Gas**

**AGENCY:** Department of Energy, Office of Fossil Energy.

**ACTION:** Notice of Application for blanket authorization to import natural gas.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 3, 1991, of an application filed by Mock Resources, Inc., (Mock), for blanket authorization to import from Canada up to 30 Bcf of natural gas for a two-year term beginning on the date of first import. Mock requests authority to import the natural gas at any point on the U.S./Canadian border where existing pipeline facilities are located. No new construction would be involved. Mock also states it will submit quarterly reports to FE detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., March 11, 1991.

**ADDRESSES:** Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585

**FOR FURTHER INFORMATION CONTACT:**

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal



Building, Room 3F-094, FE-53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9394.  
 Lot Cooke, Fossil Energy, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, GC-14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-0503

**SUPPLEMENTARY INFORMATION:** Mock is a corporation organized in the State of California with its principal place of business in Pleasanton, California. The proposed imported natural gas would be sold on a short-term basis to U.S. pipelines, local distribution companies, and commercial and industrial end-users. The specific terms of each import arrangement would be negotiated on an individual basis at market responsive prices. Mock would act on its own behalf or for the account of others and would import natural gas using existing facilities.

The applicant requests that FE grant the proposed import authority on an expedited basis. A decision on the Mock's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (40 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment in their responses on the issue of competitiveness as set forth in the policy guidelines regarding the requested import authority. The applicant asserts that imports made under this arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

#### NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

#### Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written

comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Mock's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 31, 1991.

Clifford P. Tomaszewski,  
*Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.*

[FR Doc. 91-3090 Filed 2-7-91; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3903-2]

### Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed January 28, 1991 through February 1, 1991 Pursuant to 40 CFR 1506.9.

*EIS No. 910031, Final EIS, BLM, CO, Colorado Oil and Gas Leasing and Development Plan, Glenwood Springs, Kremmling and Little Snake Resource Areas and Northeast and San Juan/San Miguel Planning Areas Resource Management Plans Amendment, Approval, CO, Due: March 11, 1991, Contact: Jim Rhett (303) 239-3770.*

*EIS No. 910032, Second Final EIS, BLM, WY, Washakie Resource Area, Wilderness Study Areas (WSAs), Suitability or Nonsuitability, (5 WSA's) Honeycombs, Cedar Mountain, Medicine Lodge, Alkali Creek, Trapper Creek, Bighorn, Washaki and Hot Spring Counties, WY, Due: March 11, 1991, Contact: Roger Inman (307) 347-9871.*

*EIS No. 910033, Final EIS, FHW, TX, US 259/Kilgore Bypass Construction, US 259 North to U.S. 259 South, Funding and section 404 Permit, City of Kilgore, Gregg and Rusk Counties, TX Due: March 11, 1991, Contact: William L. Hall, (512) 482-5988.*

*EIS No. 910034, Draft EIS, COE, IN, Tillery Hill State Recreation Area Development, Construction, Operation, and Maintenance of Recreation Facilities, Patoka Lake, Orange County, IN, Due: March 25, 1991, Contact: Keith Hoss (502) 582-6015.*

*EIS No. 910035, Draft Supplement, UMT, OR, Westside Corridor Mass Transit and Highway Improvement, Updated Alternatives, Funding, City of Portland, Beaverton, Hillsboro, Multnomah and Washington Counties, OR, Due: March 25, 1991, Contact: Donald J. Emerson (202) 336-0096.*

*EIS No. 910036, Draft EIS, NOA, MA, Stellwagen Bank National Marine*



Sanctuary, Implementation, Designation and Management Plan, Boston, MA, Due: April 9, 1991, Contact: Joseph A. Uravitch (202) 673-5122.

*EIS No. 910037, Draft Supplement, NSF, ANT, U.S. Antarctic Program, Continued Operation, Updated Information, Implementation of the Safety, Environment and Health (SEH) Initiative, Antarctic Due: March 25, 1991, Contact: Dr. Sidney Draggan (202) 357-7766.*

*EIS No. 910038, Second Draft EIS, UMT, TX, Priority Corridor Transportation Improvement, Houston, Texas Urbanized Area, METRO Phase 2 Mobility Plan, Funding, Harris County, TX, Due: March 25, 1991, Contact: Ken U. Mowll (202) 366-0096.*

*EIS No. 910039, Final EIS, MMS, AK, 1991 Chukchi Sea Outer Continental Shelf (OCS) Oil and Gas Sale 126, Leasing AK, Due: March 11, 1991, Contact: George H. Allen (907) 261-4660.*

#### Amended Notices

*EIS No. 900283, Draft EIS, IBR, CA, South Delta Water Management Program, Phase I of Water Banking Program, Implementation, COE Section 10 and 404 Permits, San Joaquin River, San Joaquin Delta, CA, Due: March 15, 1991, Contact: Wayne Deason (916) 324-9336. Published FR 08-10-90—Review period extended.*

*EIS No. 9100464, Draft EIS, AFS, CA, South Fork of the Kern River Wild and Scenic Rivers Study, Designation or Nondesignation, National Wild and Scenic Rivers System, Sequoia National Forest, Sierra Nevada Mountains, Kern County, CA, Due: March 28, 1991, Contact: Dale K. Dague (619) 376-3781. Published FR 12-28-90—Review period extended and extended.*

Dated: February 5, 1991.

William Dickerson,

Deputy Director, Office of Federal Activities.  
[FR Doc. 91-3095 Filed 2-7-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3903-4]

#### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 21, 1991 through January 25, 1991, pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments

can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13969).

#### Draft EISs

*ERP No. D-AFS-L65141-ID Rating EC2, Swamp Ridge Timber Sales and Road Construction, Portions of Swamp, Shell, Sugar, Pollock, and Lake Creek Drainages, Implementation, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID.*

*Summary.* EPA expressed environmental concerns regarding the proposed action based on potential air quality effects from broadcast and slash burning. Additional analysis of air quality effects and information on the proposed monitoring plan should be included in the final EIS.

*ERP No. D-COE-C36066-PR Rating EC2, Upper Rio Grande De Loiza Basin Flood Control Plan, Implementation, PR.*

*Summary.* EPA raised environmental concerns due to the proposal's potential adverse impacts to surface water quality and ground water quality.

*ERP No. D-FHW-F40313-IL Rating EO2, FAP-407/IL-336 Construction, US-24 at the Northern Terminus of IL-336 to Southeast of Carthage, near US-136, Funding, Section 404 Permit, Adams and Hancock, IL.*

*Summary.* EPA has objections to the proposed project based on impacts to wetlands and forested lands. EPA requests additional information regarding justification for the project.

#### Final EISs

*ERP No. F-AFS-J61073-WY, Little Bighorn River, Wild and Scenic River Study, National Wild and Scenic Rivers System, Designation, Bighorn National Forest, Sheridan County, WY.*

*Summary.* Review of the final EIS has been completed and the project found to be satisfactory. No formal letter was sent to the agency.

*ERP No. F-AFS-J65160-CO, Willow Mountain Area, Multiple-Use Management Projects, Implementation, Special Use Permit, Rio Grande National Forest, CO.*

*Summary.* EPA has no objections to the proposed project.

*ERP No. F1-BLM-J65027-00, San Juan and San Miguel Planning Area Wilderness Recommendations, Designation or Nondesignation, Cahone Canyon, Cross Canyon, Dolores River Canyon, McKenna Peak, Squaw/Papoose Canyons, Manefee Mountain, Tabeguache Creek and Weber Mountain WSAs, Montezuma, Dolores, San Miguel and Montrose Counties, CO and San Juan County, UT.*

*Summary.* EPA has no objections to the project since the final EIS has adequately addressed concerns and has incorporated the measures recommended in previous comments.

Dated: February 5, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.  
[FR Doc. 91-3096 Filed 2-7-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3902-3]

#### Financial Assistance Program Eligible for Review

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of cancellation of solicitation for proposals.

**SUMMARY:** The Environmental Protection Agency's Office of Policy, Planning, and Evaluation is cancelling the solicitation for climate change state grant proposals announced in the **Federal Register** on April 9, 1990 (55 FR 13186).

**FOR FURTHER INFORMATION CONTACT:** Ron Benioff, Office of Policy Analysis (PM-221), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Phone (202) 382-6922.

Dated: January 31, 1991.

Terry Davies,

Assistant Administrator.

[FR Doc. 91-3099 Filed 2-7-91; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL MARITIME COMMISSION

##### Transpacific Stabilization Agreement, et al; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011223-004.



**Title: Transpacific Stabilization Agreement.**

**Parties:** American President Lines, Ltd., Evergreen Marine Corp. (Taiwan) Ltd., Hanjin Shipping Co., Ltd., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Liner System, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., Sea-Land Service, Inc., Yangming Marine Transport Corp.

**Synopsis:** The proposed amendment would provide for voluntary chartering of vessel capacity among the parties on an as-needed, as-available basis, especially on short or no advance notice. The parties have requested a shortened review period.

**Agreement No.:** 203-011290-005.

**Title:** Vessel Operators Hazardous Materials Association Agreement.

**Parties:** America-Africa-Europe Line GmbH, Atlantic Container Line B.V., Evergreen Marine Corporation (Taiwan), Ltd., Farrell Lines, Inc., Hamburg-Sudamerikanische Dampfschiffahrts Gesellschaft Eggert & Amsinck (Columbus Line), Hapag-Lloyd AG, Independent Container Line Ltd., Kawasaki Kisen Kaisha Ltd., Mitsui O.S.K. Lines, Ltd., A.P. Moller-Maersk Line, Nedlloyd Lijnen B.V., Nippon Yusen Kaisha Line, P&O Containers, Ltd., Sea-Land Service, Inc., Wilh. Wilhelmsen Ltd. AS, Zim Israel Navigation Shipping Co., Ltd., Compagnie Generale Maritime, A/S Ivarans Rederi

**Synopsis:** The proposed amendment would add Senator Linie GmbH & Co. KG as a party to the Agreement. The parties have requested a shortened review period.

**Dated:** February 4, 1991.

**By Order of the Federal Maritime Commission.**

**Joseph C. Polking,**  
*Secretary.*

[FR Doc. 91-3035 Filed 2-7-91; 8:45 am]

**BILLING CODE 6730-01-M**

**Maryland Port Administration/Clark Maryland Terminals, Inc.; Agreement(s) Filed**

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal

Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

**Agreement no.:** 224-200078-008.

**Title:** Maryland Port Administration/Clark Maryland Terminals, Inc. Terminal Agreement.

**Parties:** Maryland Port Administration

Clark Maryland Terminals, Inc.

**Synopsis:** The Agreement amends the parties' basic agreement to extend the term of the agreement for 60 days beginning February 1, 1991, pending the final negotiations of a long term lease between the parties.

**By order of the Federal Maritime Commission.**

**Dated:** February 4, 1991.

**Joseph C. Polking,**  
*Secretary.*

[FR Doc. 91-3027 Filed 2-7-91; 8:45 am]

**BILLING CODE 6730-01-M**

**FEDERAL RESERVE SYSTEM**

**Illinois State Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications

must be received not later than March 1, 1991.

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illinois State Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 92.18 percent of the voting shares of The First National Bank of Wheaton, Wheaton, Illinois.

**B. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Plato Bancshares, Inc.*, Plato, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Plato, Plato, Missouri.

**C. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hansen Freeborn Inc.*, Freeborn, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Freeborn, Freeborn, Minnesota.

2. *Minnesota-Wisconsin Bancshares, Inc.*, Newport, Minnesota; MidAmerica Bancshares, Inc., Newport, Minnesota; and MidAmerica Bank Maplewood, Maplewood, Minnesota; to acquire 100 percent of the voting shares of Battle Creek Bank, St. Paul, Minnesota. In connection with this application, MidAmerica Bank Maplewood has also applied to become a bank holding company. MidAmerica Bank Maplewood proposes to merge with Battle Creek Bank after the acquisition.

**D. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Otoe County Bancorporation*, Lincoln, Nebraska; to become a bank holding company by acquiring Otoe County Bank & Trust Company, Nebraska City, Nebraska, the proposed successor to Otoe County National Bank & Trust Company, Nebraska.

Board of Governors of the Federal Reserve System, February 4, 1991.

**Jennifer J. Johnson,**  
*Associate Secretary of the Board.*

[FR Doc. 91-3063 Filed 2-7-91; 8:45 am]

**BILLING CODE 6210-01-F**

**MetroBancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities**

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of



the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1991.

**A. Federal Reserve Bank of Chicago**  
(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MetroBancorp*, Indianapolis, Indiana; to establish a subsidiary to be named Metro Federal Savings Bank, Indianapolis, Indiana, with the purpose of assuming certain deposit liabilities and purchasing certain assets of Colonial Central Savings Bank, F.S.B., Mt. Clemens, Michigan, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 4, 1991.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 91-3064 Filed 2-7-91; 8:45 am]

BILLING CODE 6210-01-F

#### **Redwood Empire Bancorp; Application To Engage de novo in Permissible Nonbanking Activities**

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1991.

**A. Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *Redwood Empire Bancorp*, Santa Rosa, California; to engage *de novo* through its subsidiary, Redwood Empire Datacorp, Santa Rosa, California, in providing data processing service covering institutional needs from items processing, sophisticated on-line systems, electronic services; deliver operational management and regulatory reporting in any medium, create and market software products to the financial industry pursuant to

§ 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 4, 1991.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 91-3065 Filed 2-7-91; 8:45 am]

BILLING CODE 6210-01-F

#### **Harley L. Zeal, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 27, 1991.

**A. Federal Reserve Bank of Chicago**  
(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harley L. Zeal*, Hanover, Illinois; to acquire 26 percent of the voting shares of First Hanover Bancorp, Inc., Hanover, Illinois, and thereby indirectly acquire Hanover State Bank, Hanover, Illinois.

**B. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Robert J. O'Halloran*, Overland Park, Kansas; to acquire 51.4 percent of the voting shares of MBI Bancshares, Inc., Kansas City, Missouri, parent of Merchants Bank, Kansas City, Missouri; 30.2 percent of the voting shares of Metro Bancshares, Inc., Kansas City, Missouri, parent of Metro North State Bank, Kansas City, Missouri; 38.3 percent of the voting shares of One Security, Inc., Kansas City, Kansas, parent of Security Bank of Kansas City, Kansas City, Kansas, Farmers National Bank of Victoria, Victoria, Kansas, and Exchange Bank of Schmidt & Koester, Marysville, Kansas; 34.2 percent of the voting shares of Valley View Bancshares, Inc., Overland Park,



Kansas, parent of Valley View State Bank, Overland Park, Kansas, and Commercial National Bank, Kansas City, Kansas; 32.3 percent of the voting shares of Industrial Bancshares, Inc., Kansas City, Kansas, parent of Industrial State Bank, Kansas City, Kansas; 21.3 percent of the voting shares of International Bancshares, Inc., Gladstone, Missouri, parent of First Bank of Gladstone, Gladstone, Missouri, Drovers Mercantile Bank, St. Joseph, Missouri, and Citizens Bank & Trust Company, Smithville, Missouri; and 36.4 percent of the voting shares of Mission Bancshares, Inc., Mission, Kansas, parent of The Mission Bank, Mission, Kansas, and The Olathe Bank, Olathe, Kansas.

Board of Governors of the Federal Reserve System, February 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-3066 Filed 2-7-91; 8:45 am]

BILLING CODE 6210-01-F

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

**Name:** Employee Thrift Advisory Council.

**Time and date:** 10 a.m., February 26, 1991.

**Place:** 5th floor, Conference Room, Federal Retirement Thrift Investment Board, 805 Fifteenth Street, NW., Washington, DC.

**Status:** Open.

**Matters to be considered:** Approval of the minutes of the October 30, 1991, meeting; report of the Executive Director on the status of the Thrift Savings Plan; legislation, nomination of Council Chairman and Vice Chairman, and new business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 523-6367.

Dated: February 4, 1991.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 91-3026 Filed 2-7-91; 8:45 am]

BILLING CODE 6710-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Advisory Committee Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** NOTICE.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

**MEETING:** The following advisory committee meeting is announced:

#### Peripheral and Central Nervous System Drugs Advisory Committee

**Date, time, and place.** March 15, 1991, 8:30 a.m., Regency Rm., Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD.

**Type of meeting and contact person.** Open public hearing, March 15, 1991, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to conclusion; Robbin M. Nighswander, Center for Drug Evaluation and Research (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3504.

**General function of the committee.** The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in neurological disease.

**Agenda—Open public hearing.** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 1, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

**Open committee discussion.** The committee will discuss COGNEX® (tacrine hydrochloride), new drug application (NDA) 20-070, Parke-Davis Pharmaceutical Research Division of Warner-Lambert Co., for use in the treatment of dementia in patients with Alzheimer's disease.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public

hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guidelines (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be



available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 1, 1991.

Alan L. Hoeting,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 91-3054 Filed 2-7-91; 8:45 am]

BILLING CODE 4160-01-M

## Public Health Service

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, January 18, 1991.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. National Surveillance for Invasive Group A Streptococcal Infections—NEW—This request is for a national surveillance for streptococcal infections. Both passive and active surveillance will be maintained through State health departments. This surveillance system will be used to monitor trends in rates, define the risk of secondary spread of the disease, and to better define groups at risk. *Respondents:* State or local governments; *Number of Respondents:* 50; *Number of Responses per Respondent:* 31.2; *Average Burden per Response:* .25 hours; *Estimated Annual Burden:* 390 hours.

2. Evaluation of the "America Responds to AIDS" Campaign—NEW—Materials for the "America Responds to AIDS" campaign will be evaluated to measure their effectiveness and efficacy. The data collected among target populations will be used to develop campaign messages and to ensure that campaign materials are understood. *Respondents:* Individuals or households; *Number of Respondents:* 25,970; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 0.230 hours; *Estimated Annual Burden:* 5,984 hours.

3. Importer's Entry Notice, Form FDA 700 Set—0910-0046—The Food and Drug Administration (FDA) has the responsibility of assuring the admissibility of foods, drugs, medical devices, and cosmetics offered for import into the United States. Each sample taken requires certain documents which notify FDA of arrival of each shipment. ORO selects representative items for sampling and analysis. *Respondents:* Businesses or other for-profit; *Number of Respondents:* 63,000; *Number of Responses per*

*Respondent:* 21; *Average Burden per Response:* 0.05 hours; *Estimated Annual Burden:* 66,150 hours.

4. National Health Service Corps Scholarship Program—0915-0072—Health professions students applying for National Health Service Corps Scholarships provide information needed to determine eligibility for the program. *Respondents:* Individuals or Households; *Number of Respondents:* 3,000; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1 hour; *Estimated Annual Burden:* 3,000 hours.

5. NCHS Laboratory-Based Questionnaire Research—0920-0222—Questionnaires for use in the three NCHS surveys, and for one other questionnaire design research project, will be developed using laboratory methods which combine the techniques of cognitive psychology and survey methodology to reduce measurement error. *Respondents:* Individuals or households; *Number of Respondents:* 350; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1 hours; *Estimated Annual Burden:* 350 hours.

6. National Health Service Corps Loan Repayment Program and the NHSC State Loan Repayment Program (42 CFR part 62)—0915-0127/0915-0131—Health professionals applying to the National Health Service Corps (NHSC) Loan Repayment Program (LRP) application provide information needed to determine eligibility. NHSC/LRP participants provide information on training status in compliance with program requirements. States applying to the NHSC State LRP provide information needed to determine eligibility. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit.

	No. of respondents	No. of hours per response	No. of responses per respondent
NHSC/LRP application.....	2,000	1.5 hrs.....	1
Lender's confirmation of loan.....	1,600	.25 hrs.....	1
Training documentation 62.26(b)(2).....	1	1 hr.....	1
State Loan repayment program application.....	(1)		
<i>Estimated Annual Burden:</i> 3,401 hours.			

<sup>1</sup> Burden carried with application OMB No. 0937-0189.

7. Respiratory Protective Devices—30 CFR 11—Regulations—0920-0109—Part II prescribes requirements and procedures which must be met in filing

applications for joint approval by MSHA and NIOSH of respirators and modifications of respirators. Application contents, quality control plans, and

quality control records are required. *Respondents:* Businesses or other for-profit.



	No. of respond- ents	No. of hours per response	No. of responses per respond- ent
Reporting.....	42	80.62 hrs. ....	12
Recordkeeping.....	42	322.56 hrs. ....	1
<i>Estimated Annual Burden: 54,180 hours.</i>			

8. A Case Control Study of Second Cancers Following Oral and Pharyngeal Cancer—NEW—A brief telephone survey will be administered to approximately 320 oral cancer patients or their next-of-kin in order to evaluate the relationship between recent changes in tobacco and alcohol use and diet and the development of second primaries. Usual adult patterns of use prior to oral cancer will also be evaluated.

*Respondents:* Individuals or households, small businesses or organizations;  
*Number of Respondents:* 400; *Number of Responses per Respondent:* 1.075;  
*Average Burden per Response:* 0.205 hours; *Estimated Annual Burden:* 88 hours.

*OMB Desk Officer:* Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address:

Human Resources and Housing Branch,  
New Executive Office Building, room  
3002; Washington, DC 20503.

Dated: February 1, 1991.

James M. Friedman,  
*Acting Deputy Assistant Secretary for Health  
(Planning and Evaluation).*

[FR Doc. 91-2932 Filed 2-7-91; 8:45 am]

BILLING CODE 4160-17-M

### Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 55 FR 39070, September 24, 1990) is amended to reflect the revision of the functional statement for the Office of the Director (HCA521), Engineering Services Office (HCA52), Office of Program Support (HCA5).

*Section HC-B, Organization and*

*Functions,* is hereby amended as follows:

After the functional statement for the Engineering Services Office (HCA52), delete in its entirety the functional statement for the Office of the Director (HCA521) and substitute the following:

(1) Plans, directs, and coordinates Engineering Services Office (ESO) activities; (2) provides technical assistance for and reviews maintenance and operation programs of field installations and recommends appropriate action; (3) maintains liaison with the Division of Health Facilities Planning of the Office of the Assistant Secretary for Health; (4) plans and directs the CDC real property and space management, including the acquisition and utilization of leased space; (5) provides engineering and management direction for new or expanded facilities and for major repair and improvement of existing facilities; (6) plans and schedules activities of routine or special maintenance and repair projects, including estimating and expediting material and manpower for the work accomplishment; (7) processes data for maintenance management systems to develop reports and analyses; (8) provides engineered systems and methods necessary for special research and development projects.

Effective Date: January 31, 1991.

William L. Roper,

*Director, Centers for Disease Control.*

[FR Doc. 91-3053 Filed 2-7-91; 8:45 am]

BILLING CODE 4160-18-M

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Office of Policy Development and Research

[Docket No. N-91-3207]

#### Commission on Regulatory Barriers to Affordable Housing; Meeting

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Commission was

established on March 14, 1990 in accordance with the provisions of the Commission's charter and the Federal Advisory Committee Act (FACA). The Commission was created to advise the Secretary on the nature and impact upon costs of Federal, State and local regulations governing the construction of housing. The Commission was directed to present findings as well as advisory recommendations as to possible remedial Federal, State, and local actions that can be taken to eliminate excessive, duplicative or unnecessary regulations that increase the cost of housing.

Commission meetings were held in Washington, DC on May 31, September 26, and December 14, and in Chicago, IL on August 1. Public hearings were held in Trenton, NJ on July 11, in Chicago, IL on July 31 and August 1, in San Francisco, CA, on September 12 and 13, and in Washington, DC, on September 25, 1990. The purpose of these hearings was to solicit testimony on the nature and extent of regulatory barriers to affordable housing and on possible approaches to implementing regulatory reform.

**TIME AND PLACE:** The Commission will meet on Wednesday, February 27 from 7:30 p.m. to 9:30 p.m. and Thursday, February 28, 1991 from 9:30 a.m. to approximately 4:30 p.m. The meeting will take place at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. These are open meetings.

**AGENDA:** The Commission will discuss the contents of the final report.

**PUBLIC PARTICIPATION:** The public is invited to submit written comments on aspects of the Commission's mandate or activities.

**FOR FURTHER INFORMATION CONTACT:** Heather Aveille, Office of Policy Development and Research, room 8122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-0544. (This is not a toll-free number).



Dated: February 5, 1991.

John C. Weicher,

Assistant Secretary for Policy Development  
and Research, United States Department of  
Housing and Urban Development.

[FR Doc. 91-3078 Filed 2-7-91; 8:45 am]

BILLING CODE 4210-01-M

# **Office of the Assistant Secretary for Community Planning and Development**

[Docket No. N-91-1917; FR-2934-N-11]

## **Federal Property Suitable as Facilities to Assist the Homeless**

**AGENCY:** Office of the Assistant  
Secretary for Community Planning and  
Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies  
unutilized and underutilized Federal  
property determined by HUD to be  
suitable for possible use for facilities to  
assist the homeless.

**EFFECTIVE DATE:** February 8, 1991.

**ADDRESSES:** For further information,  
contact James Forsberg, room 7262,  
Department of Housing and Urban  
Development, 451 Seventh Street SW.,  
Washington, DC 20410; telephone (202)  
708-4300; TDD number for the hearing-  
and speech-impaired (202) 708-2565.  
(Telephone numbers are not toll-  
free.)

**SUPPLEMENTARY INFORMATION:** In  
accordance with the December 12, 1988  
Court Order in *National Coalition for  
the Homeless v. Veterans  
Administration*, No. 88-2503-OG  
(D.D.C.), HUD is publishing this notice  
to identify Federal buildings and real  
property that HUD has determined are  
suitable for use for facilities to assist the  
homeless. The properties were identified  
from information provided to HUD by  
Federal landholding agencies regarding  
unutilized and underutilized buildings  
and real property controlled by such  
agencies or by GSA regarding its  
inventory of excess or surplus Federal  
property.

The Order requires HUD to take  
certain steps to implement section 501 of  
the Stewart B. McKinney Homeless  
Assistance Act (42 U.S.C. 11411), which  
sets out a process by which unutilized or  
underutilized Federal properties may be  
made available to the homeless. Under  
section 501(a), HUD is to collect  
information from Federal landholding  
agencies about such properties and then  
to determine, under criteria developed in  
consultation with the Department of  
Health and Human Services (HHS) and  
the Administrator of General Services

(GSA), which of those properties are  
suitable for facilities to assist the  
homeless. The Order requires HUD to  
publish, on a weekly basis, a notice in  
the **Federal Register** identifying the  
properties determined as suitable.

The properties identified in this notice  
may ultimately be available for use by  
the homeless, but they are first subject  
to review by the landholding agencies  
pursuant to the court's Memorandum of  
December 14, 1988 and section 501(b) of  
the McKinney Act. Section 501(b)  
requires HUD to notify each Federal  
agency about any property of such  
agency that has been identified as  
suitable. Within 30 days from receipt of  
such notice from HUD, the agency must  
transmit to HUD: (1) Its intention to  
declare the property excess to the  
agency's need or to make the property  
available on an interim basis for use as  
facilities to assist the homeless; or (2) a  
statement of the reasons that the  
property cannot be declared excess or  
made available on an interim basis for  
use as facilities to assist the homeless.

First, if the landholding agency  
decides that the property cannot be  
declared excess or made available to  
the homeless for use on an interim basis  
the property will no longer be available.

Second, if the landholding agency  
declares the property excess to the  
agency's need, the property may, if  
subsequently accepted as excess by  
GSA, be made available for use by the  
homeless in accordance with applicable  
law and the December 12, 1988 Order  
and December 14, 1988 Memorandum,  
subject to screening for other Federal  
use.

Homeless assistance providers  
interested in any property identified as  
suitable in this Notice should send a  
written expression of interest to HHS,  
addressed to Judy Breitman, Division of  
Health Facilities Planning, U.S. Public  
Health Service, HHS, room 17A-10, 5600  
Fishers Lane, Rockville, MD 20857; (301)  
443-2265. (This is not a toll-free  
number.) HHS will mail to the interested  
provider an application packet, which  
will include instructions for completing  
the application. In order to maximize the  
opportunity to utilize a suitable  
property, providers should submit such  
written expressions of interest within 30  
days from the date of this notice. For  
complete details concerning the timing  
and processing of applications, the  
reader is encouraged to refer to HUD's  
**Federal Register** notice on June 23, 1989  
(54 FR 26421), as corrected on July 3,  
1989 (54 FR 27975).

For more information regarding  
particular properties identified in this  
notice (*i.e.*, acreage, floor plan, existing  
sanitary facilities, exact street address),

providers should contact the appropriate  
landholding agencies at the following  
addresses: GSA: Ronald Rice, Federal  
Property Resources Services, GSA, 18th  
and F Streets NW., Washington, DC  
20405; (202) 501-0067; U.S. Air Force:  
Bob Menke, Bolling AFB, HQ-USAF/  
LEER, Washington, DC 20332-5000; (202)  
767-4191; Dept. of Interior: Lola D.  
Knight, Department of Interior, 18th and  
C Sts. NW., Mailstop 5512, Washington,  
DC 20240; (202) 208-4080. (These are not  
toll-free numbers.)

Dated: January 31, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic  
Development.

## **Suitable Buildings (by State)**

### *Arkansas*

Bldg. 271, E. COE Residence  
Hot Springs National Park  
101 Hutson Drive  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110001  
Status: Unutilized  
Comment: 1244 sq. ft.; 1 story wood frame  
residence; needs rehab; off-site use only.

Bldg. 270, M. Reed Residence  
Hot Springs National Park  
321 Terryland Drive  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110002  
Status: Unutilized  
Comment: 2225 sq. ft.; 1 story stone and frame  
residence; needs rehab; off-site use only.

Bldg. 266, D. Graves Rent House  
Hot Springs National Park  
108 Earhart  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110003  
Status: Unutilized  
Comment: 744 sq. ft.; 1 story wood frame  
residence; needs rehab; off-site use only.

Bldg. 267, N. Nooner Rent House  
Hot Springs National Park  
215 Congress  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110004  
Status: Unutilized  
Comment: 1537 sq. ft.; 1 story brick veneer  
residence; needs rehab; off-site use only.

Bldg. 268, L. Smith Residence  
Hot Springs National Park  
820 Music Mountain Road  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110005  
Status: Unutilized  
Comment: 1687 sq. ft.; 1 story rock veneer  
residence; needs rehab; off-site use only.

Bldg. 227, C. Smith Residence  
Hot Springs National Park  
1702-E West Grand  
Hot Springs, AR, Co: Garland  
Landholding Agency: Interior  
Property Number: 619110006



Status: Unutilized  
 Comment: 616 sq. ft.; 1 story stucco/frame residence; needs rehab; off-site use only.

Bldg. 231, L. Schenk Residence  
 Hot Springs National Park  
 103 Floro Lane

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110007

Status: Unutilized  
 Comment: 1212 sq. ft.; 2 story frame residence; needs rehab; off-site use only.

Bldg. 254, J. Gardiner Residence  
 Hot Springs National Park  
 303 Congress

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110008

Status: Unutilized  
 Comment: 728 sq. ft.; 1 story stucco/frame residence; needs rehab; off-site use only.

Bldg. 259, E. Holland Residence  
 Hot Springs National Park  
 118 Clinton

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110009

Status: Unutilized  
 Comment: 1456 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 260, V. Webb Residence  
 Hot Springs National Park  
 415 Pullman

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110010

Status: Unutilized  
 Comment: 1974 sq. ft.; 2 story wood frame residence; needs rehab; off-site use only.

Bldg. 261, J. Phillips Residence  
 Hot Springs National Park  
 120 Sleepy Valley Road

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110011

Status: Unutilized  
 Comment: 1298 sq. ft.; 1 story metal siding frame residence; needs rehab; off-site use only.

Bldg. 262, L. Rasmussen Residence  
 Hot Springs National Park  
 115 Daley Drive

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110012

Status: Unutilized  
 Comment: 1475 sq. ft.; 1 story brick veneer residence; needs rehab; off-site use only.

Bldg. 263, H. Mohle Rent House  
 Hot Springs National Park  
 309 Terryland Drive

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110013

Status: Unutilized  
 Comment: 971 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 264, H. Mohle Mobile Home  
 Hot Springs National Park  
 Above 303 Terryland Drive

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110014

Status: Unutilized

Comment: 440 sq. ft.; mobile home; needs rehab; off-site use only.

Bldg. 265, H. Mohle Barn  
 Hot Springs National Park  
 Above 309 Terryland Drive

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110015

Status: Unutilized  
 Comment: 1134, sq. ft.; 1 story wood frame; needs rehab; most recent use—apartment; off-site use only.

Bldg. 269, M. Reed Rent House  
 Hot Springs National Park  
 315 Terryland Drive

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110016

Status: Unutilized  
 Comment: 798 sq. ft.; 1 story brick and stucco residence; needs rehab; off-site use only.

Bldg. 272, P. Dickey Residence  
 Hot Springs National Park  
 111 McKinley

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110017

Status: Unutilized  
 Comment: 748 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 274 D. Jackson Rent House  
 Hot Springs National Park  
 427 Holly Street

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110018

Status: Unutilized  
 Comment: 845 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 275 D. Jackson Rent House  
 Hot Springs National Park  
 429 Holly Street

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110019

Status: Unutilized  
 Comment: 1332 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 276 D. Jackson Rent House  
 Hot Springs National Park  
 509 Holly Street

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110020

Status: Unutilized  
 Comment: 947 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 277 D. Jackson Rent House  
 Hot Springs National Park  
 511 Holly Street

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110021

Status: Unutilized  
 Comment: 1025 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

Bldg. 278, E. Green Rent House  
 Hot Springs National Park  
 603 Bower

Hot Springs, AR, Co: Garland  
 Landholding Agency: Interior  
 Property Number: 619110022

Status: Unutilized  
 Comment: 1030 sq. ft.; 1 story wood frame residence; needs rehab; off-site use only.

#### North Dakota

Bldg. 101

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110095

Status: Excess  
 Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 102

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110096

Status: Excess  
 Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 103

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110097

Status: Excess  
 Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 104

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110098

Status: Excess  
 Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 105

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110099

Status: Unutilized  
 Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 106

Fortuna Air Force Station  
 Fortuna, ND, Co: Divide

Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Landholding Agency: Air Force  
 Property Number: 189110100

Status: Excess  
 Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 107



Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 121**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110113  
Status: Excess  
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 122**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110114  
Status: Excess  
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 123**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110115  
Status: Excess  
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 124**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110116  
Status: Excess  
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 125**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110117  
Status: Excess  
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

**Bldg. 126**  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and



Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110130  
Status: Excess  
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit' needs rehab; off-site use only.  
Bldg. 205  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110131  
Status: Excess  
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit' needs rehab; off-site use only.  
Bldg. 206  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110132  
Status: Excess  
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.  
Bldg. 207  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110133  
Status: Excess  
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.  
Bldg. 208  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110134  
Status: Excess  
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.  
Bldg. 209  
Fortuna Air Force Station  
Fortuna, ND, Co: Divide  
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.  
Landholding Agency: Air Force  
Property Number: 189110135  
Status: Excess



**Location:** Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.

Property Number: 189110153



Status: Excess  
Comment: 672 sq. ft.; 2 stall vehicle garage; needs rehab; off-site use only.

#### Ohio

Parcel 2  
Lock and Dam #16  
Washington, OH, Co: Washington  
Location: On the Ohio River; 4 miles downstream from New MataMoras, Grandview Township.  
Landholding Agency: GSA  
Property Number: 549110010  
Status: Excess  
Comment: 2 story brick frame; subject to periodic flooding; possible asbestos on pipes; most recent use—office space.  
GSA NO. 2—GR(1)—OH—730

Parcel 1  
Lock and Dam #16  
Washington, OH, Co: Washington  
Location: On the Ohio River; 4 miles downstream from New MataMoras, Grandview Township.  
Landholding Agency: GSA  
Property Number: 549110011  
Status: Excess  
Comment: 2.5 story brick frame; subject to periodic flooding; possible asbestos on pipes; most recent use—storage.  
GSA NO. 2—GR(1)—OH—730

#### South Dakota

Bldg. 8434C  
Ellsworth Air Force Base  
286 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110033  
Status: Unutilized  
Comment: 960 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8433G  
Ellsworth Air Force Base  
294 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110034  
Status: Unutilized  
Comment: 936 sq. ft.; 1 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8432E  
Ellsworth Air Force Base  
310 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110035  
Status: Unutilized  
Comment: 1114 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8470A  
Ellsworth Air Force Base  
563 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110036  
Status: Unutilized  
Comment: 897 sq. ft.; 1 story wood frame residence; structurally deteriorated;

possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8438A  
Ellsworth Air Force Base  
250 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110037  
Status: Unutilized  
Comment: 1213 sq. ft.; 1 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8435C  
Ellsworth Air Force Base  
274 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110038  
Status: Unutilized  
Comment: 960 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8461D  
Ellsworth Air Force Base  
449 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110039  
Status: Unutilized  
Comment: 960 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8437B  
Ellsworth Air Force Base  
260 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110040  
Status: Unutilized  
Comment: 1114 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8423A  
Ellsworth Air Force Base  
466 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110041  
Status: Unutilized  
Comment: 1170 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8432D  
Ellsworth Air Force Base  
312 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110042  
Status: Unutilized  
Comment: 960 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8429B  
Ellsworth Air Force Base  
400 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110043  
Status: Unutilized

Comment: 837 sq. ft.; 1 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8435A  
Ellsworth Air Force Base  
276 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110044  
Status: Unutilized  
Comment: 1213 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8440D  
Ellsworth Air Force Base  
230 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110045  
Status: Unutilized  
Comment: 960 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8453D  
Ellsworth Air Force Base  
297 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110046  
Status: Unutilized  
Comment: 1114 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8417B  
Ellsworth Air Force Base  
532 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110047  
Status: Unutilized  
Comment: 1114 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8461E  
Ellsworth Air Force Base  
451 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110048  
Status: Unutilized  
Comment: 1114 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8443A  
Ellsworth Air Force Base  
216 Billy Mitchell, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110049  
Status: Unutilized  
Comment: 1213 sq. ft.; 2 story wood frame residence; structurally deteriorated; possible asbestos; potential utilities; secured area with alternate access.

Bldg. 8443B  
Ellsworth Air Force Base  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force



Comment: 965 sq. ft., 2 story wood frame residence; structurally deteriorated



possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8479G

Ellsworth Air Force Base  
54 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110071  
Status: Unutilized

Comment: 1114 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8483D

Ellsworth Air Force Base  
37 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110072  
Status: Unutilized

Comment: 960 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8473C

Ellsworth Air Force Base  
91 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110074  
Status: Unutilized

Comment: 960 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8489D

Ellsworth Air Force Base  
1 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110075  
Status: Unutilized

Comment: 963 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8483E

Ellsworth Air Force Base  
36 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110076  
Status: Unutilized

Comment: 960 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8489B

Ellsworth Air Force Base  
3 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110077  
Status: Unutilized

Comment: 963 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8412E

Ellsworth Air Force Base  
623 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110078  
Status: Unutilized

Comment: 963 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8413E

624 Arnold Lane  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110079  
Status: Unutilized

Comment: 1114 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8415E

Ellsworth Air Force Base  
608 Arnold Lane, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110080  
Status: Unutilized

Comment: 1114 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Bldg. 8486C

Ellsworth Air Force Base  
29 Front Street, Skyway Housing  
Ellsworth AFB, SD, Co: Pennington  
Landholding Agency: Air Force  
Property Number: 189110073  
Status: Unutilized

Comment: 1170 sq. ft.; 2 story wood frame  
residence; structurally deteriorated;  
possible asbestos; potential utilities;  
secured area with alternate access.

## Texas

## Bldg. 605

Brooks Air Force Base  
San Antonio, TX, Co: Bexar  
Landholding Agency: Air Force  
Property Number: 189110090  
Status: Unutilized

Comment: 392 sq. ft.; 1 story sheet metal  
building; most recent use—storage;  
possible asbestos; needs rehab.

## Bldg. 696

Brooks Air Force Base  
San Antonio, TX, Co: Bexar  
Landholding Agency: Air Force  
Property Number: 189110091  
Status: Unutilized  
Comment: 1344 sq. ft.; possible asbestos; most  
recent use—auto hobby shop; needs rehab.

## Bldg. 697

Brooks Air Force Base  
San Antonio, TX, Co: Bexar  
Landholding Agency: Air Force  
Property Number: 189110092  
Status: Unutilized  
Comment: 770 sq. ft.; possible asbestos; most  
recent use—supply store; needs rehab.

## Bldg. 698

Brooks Air Force Base  
San Antonio, TX, Co: Bexar  
Landholding Agency: Air Force  
Property Number: 189110093  
Status: Unutilized  
Comment: 5815 sq. ft.; 1 story corrugated iron;  
possible asbestos; needs rehab; most  
recent use—recreation, workshop.

## Bldg. 699

Brooks Air Force Base  
San Antonio, TX, Co: Bexar

Landholding Agency: Air Force  
Property Number: 189110094

Status: Unutilized

Comment: 2659 sq. ft.; 1 story; possible  
asbestos; most recent use—arts and crafts  
center.

## Universe of Properties:

Total.....177  
Suitable.....136  
Suitable Buildings.....136  
Suitable Land.....0  
Unsuitable.....41  
Unsuitable Buildings.....41  
Unsuitable Land.....0  
Number of Resubmissions.....0

[FR Doc. 91-2879 Filed 2-7-91; 8:45 am]

BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, Public Meeting

**AGENCY:** Department of the Interior.

**SUMMARY:** The Office of the Assistant  
Secretary—Indian Affairs is announcing  
the forthcoming meeting of the Joint  
Tribal/BIA/DOI Advisory Task Force  
on Bureau of Indian Affairs  
Reorganization (Task Force).

**DATES:** Date, Time, and Place: February  
26, 27, and 28, 1991; 9 a.m. to 5:30 p.m.  
daily; Holiday Inn Crowne Plaza, 300  
Army Navy Drive, Arlington, Virginia.  
The meetings of the Task Force are open  
to the public.

**FOR FURTHER INFORMATION CONTACT:**

Additional information concerning the  
meeting of the Joint Tribal/BIA/DOI  
Advisory Task Force on Bureau of  
Indian Affairs Reorganization may be  
obtained by contacting Ms. Veronica  
Murdock, Designated Federal Officer, at  
(202) 208-4173.

**AGENDA:**

The Joint Tribal/BIA/DOI  
Advisory Task Force on Bureau of  
Indian Affairs Reorganization will  
discuss the comments received from  
tribal leaders on the Task Force  
proposed structure and concepts; review  
current management improvement  
initiatives underway within the Bureau  
of Indian Affairs; determine the topics to  
be covered and the methodology to be  
used in addressing open issues; and  
formulate strategies for the development  
of a new mission statement and  
organizational structure for the Bureau.  
Summary minutes of the meeting will be  
made available upon request from the  
contact person.



Dated: February 4, 1991.

Veronica Murdock,

Designated Federal Officer, Joint Tribal/BIA/  
DOI Advisory Task Force on Bureau of Indian  
Affairs Reorganization.

[FR Doc. 91-3049 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-02-M

## Bureau of Land Management

[CA-060-1-4410-12]

### Amendment of the Recreation Element of the California Desert Conservation Area Plan

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Revised notice of intent; notice  
of public workshops.

**SUMMARY:** In accordance with 43 CFR  
1610.5-5, notice is given that the Bureau  
of Land Management (BLM) intends to  
amend the recreation element of the  
California Desert Conservation Area  
(CDCA) Plan. In accordance with BLM  
planning regulations, an environmental  
impact statement (EIS) will be prepared to  
the Plan amendment.

The purpose of this amendment is: (1)  
To define under what conditions  
competitive and noncompetitive  
motorized vehicle events can be  
permitted on public lands; (2) to clarify  
the application in the CDCA of existing  
regulations regarding Off Highway  
Vehicle (OHV) events; and (3) to  
streamline the BLM's OHV event  
permitting process in the California  
Desert. The BLM is considering the  
establishment of criteria for evaluating  
applications for permits to conduct  
competitive and noncompetitive  
motorized vehicle events on public  
lands outside of open areas. These  
criteria would be derived from issues  
and concerns identified by the BLM and  
by the public and considered necessary  
to meet the BLM's multiple use mandate  
in accordance with the Federal Land  
Policy and Management Act (FLPMA).

This notice modifies Federal Register  
notices published on January 18, 1990  
(Vol. 55, No. 12) and April 30, 1990 (Vol.  
55, No. 83) which addressed proposals to  
delete four competitive recreational  
routes from the CDCA Plan and to  
prohibit competitive events in desert  
tortoise habitat categories 1 and 2.  
These earlier proposals will be  
considered in the context of this broader  
amendment to the recreation element of  
the CDCA Plan.

Members of the public are invited to  
attend public workshop sessions on this  
proposed amendment to help the BLM  
identify issues and concerns related to  
competitive and noncompetitive

motorized vehicle events on public  
lands. Written comments and  
statements on issues and concerns will  
also be accepted.

**DATES:** Written comments will be  
accepted from the public until March 15,  
1991. Public workshops on the  
amendment will be held as follows:

February 20, 1991, 7-9:30 p.m., Comfort  
Inn, 8000 Parkway Drive, La Mesa,  
California.

February 25, 1991, 7-9:30 p.m., Double  
Tree Hotel, 100 The City Drive,  
Orange, California.

February 26, 1991, 7-9:30 p.m., Needles  
High School, Washington Avenue,  
Needles, California.

March 5, 1991, 7-9:30 p.m., Barstow  
Station Inn, 1511 East Main Street,  
Barstow, California.

March 7, 1991, 7-9:30 p.m., Carriage Inn,  
901 China Lake Blvd., Ridgecrest,  
California.

**ADDRESSES:** Written comments should  
be sent to the District Manager,  
California Desert District, 1695 Spruce  
Street, Riverside, California 92507.

**FOR FURTHER INFORMATION CONTACT:**  
Molly S. Brady, Chief, Planning and  
Environmental Assistance, California  
Desert District, 1695 Spruce Street,  
Riverside, California 92507, (714) 276-  
6428.

**SUPPLEMENTARY INFORMATION:** The  
CDCA Plan of 1980 established  
management guidelines for organized  
competitive vehicle events on public  
lands in the California Desert. Among  
other things, the Plan provided for long-  
distance point-to-point events by  
delineating three competitive recreation  
routes—a Johnson Valley to Parker  
route, a Parker "400" route, and a  
Stoddard Valley to Johnson Valley  
route. The 1980 Plan also identified 10  
special requirements for race events in  
Multiple-Use Class L areas, in addition  
to those contained in the multiple-use  
guidelines set forth in the 1980 Plan. In  
1982, the Plan was amended to provide  
for an additional point-to-point  
competitive route—a Barstow-to-Vegas  
route—and management guidelines for  
its use.

Changes in resource conditions,  
particularly dramatic declines in the  
desert tortoise population, as well as  
management problems associated with  
point-to-point racing events led to a  
decision by the BLM to consider  
deletion of the four competitive  
recreation routes from the CDCA Plan.  
The BLM announced its intention to  
amend the Plan by deleting the four  
routes and invited public comments on  
the proposed amendment in a notice  
published in the Federal Register on  
January 18, 1990, (Vol. 55, No. 12). A

second Federal Register notice was  
published on April 30, 1990 (Vol. 55, No.  
83) which, among other things, proposed  
an additional amendment to the Plan  
which would prohibit competitive  
motorized vehicle events in desert  
tortoise habitat Categories 1 and 2. The  
April 30 notice invited public comments  
and extended the public comment  
period on the January 18 notice until  
May 30, 1990.

Based on the comments received on  
those notices, it became apparent that  
the issues and concerns regarding  
motorized vehicle events in the  
California Desert were broader than  
initially anticipated. In reevaluating the  
situation, the BLM determined that  
additional revisions to the organized  
competitive vehicle events guidance in  
the recreation element of the CDCA Plan  
may be warranted as well as  
development of guidance of motorized  
vehicle events which are essentially  
noncompetitive in nature. Public  
workshops to be held in February and  
March 1991 are intended to provide  
opportunities for public input into the  
development of the proposed  
amendment and alternatives.

Dated: February 4, 1991.

Richard E. Crowe,

Acting District Manager.

[FR Doc. 91-3174 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-40-M

[WY-010-01-4332-09; FES 91-2]

### Availability of Final Wilderness Environmental Impact Statement (EIS) for the Washakie Resource Area, Worland District, WY

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Notice of availability of  
Washakie Final Wilderness  
Environmental Impact Statement,  
Wyoming.

**SUMMARY:** The Washakie Wilderness  
Environmental Statement assesses the  
environmental consequences of  
managing five wilderness study areas as  
wilderness or nonwilderness. The  
alternatives assessed include: (1) A "No  
Wilderness Alternative" for each  
wilderness study area; (2) an "All  
Wilderness Alternative" for each  
wilderness study area; (3) a "Partial  
Wilderness Alternative" for three  
wilderness study areas; and (4) a  
"Wilderness Enhancement Alternative"  
for four wilderness study areas.

The names of the wilderness study  
areas, their total acreage, and the  
acreage recommended suitable and



nonsuitable under the Proposed Action are:

Honeycombs—21,000 acres—21,000 acres nonsuitable for wilderness  
Cedar Mountain—21,560 acres—10,223 acres suitable for wilderness and 11,337 acres nonsuitable for wilderness;  
Medicine Lodge—7,740 acres—3,600 acres suitable for wilderness and 4,140 acres nonsuitable for wilderness;  
Alkali Creek—10,000 acres—8,187 acres suitable for wilderness and 1,913 acres nonsuitable for wilderness; and  
Trapper Creek—7,200 acres—7,200 acres suitable for wilderness.

The Bureau of Land Management wilderness proposal will ultimately be forwarded by the Secretary of the Interior to the President and by the President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no action on these proposals can be taken by the Secretary of the Interior during the 30 days following the filing of this EIS. This complies with the Council of Environmental Quality Regulations, 40 CFR 1501.10b(2).

**SUPPLEMENTARY INFORMATION:** Copies of the environmental impact statement may be obtained from the District Manager, Bureau of Land Management, Worland District, P.O. Box 119, Worland, Wyoming 82401.

Copies are also available for inspection at the following locations:  
Department of the Interior, Bureau of Land Management, Office of Public Affairs, 1849 C Street NW., Washington, DC 20240.  
Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Bureau of Land Management, Worland District Office, 101 South 23rd Street, Worland, Wyoming 82401.

**FOR FURTHER INFORMATION CONTACT:** Mark Goldbach, EIS Team Leader, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, (307) 347-9871.

Dated: January 25, 1991.

Jonathan P. Deason,  
Director, Office of Environmental Affairs.  
[FR Doc. 91-2382 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-22-M

[ID-050-01-4320-14]

#### Shoshone District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, (BLM), Interior.

**SUMMARY:** This notice sets forth the schedule and proposed agenda for a

meeting of the Shoshone District Grazing Advisory Board.

**DATES:** Wednesday, March 13, 1991, at 9 a.m.

**ADDRESSES:** BLM District Office, 400 West F Street, Shoshone, ID 83352.

**FOR FURTHER INFORMATION CONTACT:** K Lynn Bennett, District Manager, Shoshone District Office, P.O. Box 2-B, Shoshone, ID 83352. Telephone (208) 886-2206 or FTS 554-6110.

**SUPPLEMENTARY INFORMATION:** The proposed agenda for the meeting includes the following items: (1) Idaho Designated Stream Segments of Concern; (2) Monument Resource Area AMPs; (3) Forage Outlook for 1991; (4) Bennett Hills RMP Progress Report; (5) General Items of Interest; and (6) Disburse Advisory Board Funds.

Operation and administration of the Board will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. appendix 1) and Department of Interior regulations, including 43 CFR part 1984.

The meeting will be open to the public. Anyone may present an oral statement between 11 and 12 or may file a written statement regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District by Monday, March 11, 1991. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

K Lynn Bennett,  
District Manager.

[FR DOC. 91-3048 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-GG-M

[WY920-01-5700-11]

#### Wyoming State Office Public Room Hours

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Change in Public Room Hours; Wyoming.

**SUMMARY:** Notice is hereby given that effective immediately, the hours for the Wyoming State Office Public Room are 9 a.m. to 4 p.m., Monday through Friday (except holidays).

**EFFECTIVE DATE:** February 8, 1991.

**FOR FURTHER INFORMATION CONTACT:** Thomas E. Enright, Chief, Branch of Records, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003 (307) 775-6150.

**SUPPLEMENTARY INFORMATION:** In accordance with 43 CFR 1821.2-1(a) the Wyoming State Office has established hours that the office is open to the

public for the purpose of conducting public transaction such as filing of applications and other documents, the sale of records, maps, firewood and Christmas tree permits, as well as for the inspection of those public records.

Dated: January 29, 1991.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 91-3018 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-22-M

[MT-020-01-4120-09; M-76849]

#### Availability of the Bull Mountains Exchange Record of Decision et al.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability of the Bull Mountains Exchange Record of Decision and Notice of Realty Action, M-76849, exchange of federal coal lands in Musselshell and Yellowstone Counties for private lands in Madison, Beaverhead, Deer Lodge, and Carbon Counties, Montana.

**SUMMARY:** In May 1988, Meridian Minerals Company (Meridian) submitted a land exchange application to the Bureau of Land Management (BLM) for consideration. Meridian proposed the exchange to acquire 3,673.16 acres of selected federal coal lands for 9,873.19 acres of offered private lands. A Draft EIS addressing the impacts of the proposed exchange and alternatives was issued in October 1989. The Final EIS was issued in November 1990.

BLM has made the decision to consummate the exchange with the following conditions:

1. Only underground mining is allowed on the selected federal coal lands.
2. Based on the application of the unsuitability criteria, all the selected federal coal lands were suitable for underground mining. Two areas in T. 6 N., R. 27 E., Section 18 NW ¼ NW ¼ were identified as unsuitable for longwall mining (24.5 acres for floodplains; 6 acres for homesite). These two areas are unsuitable for longwall mining unless the company and the regulatory agencies can reach agreement that these areas can be mined safely by the longwall method. These two areas can be mined by the room-and-pillar method.
3. Development and mining of the Bull Mountains coal must occur within 10 years from the date of issuance of the patent at a minimum production level of 500,000 tons of coal per year. The development and mining can initially



occur on either the private Meridian-owned coal or the selected federal coal as long as a mine is developed and producing coal at the minimum level of production. If there is no development and a mine is not in production at the minimum level of 500,000 tons of coal per year at the end of 10 years, then an overriding royalty rate of one percent accrues to the federal government at day one, 0001 AM hours on the eleventh year of the anniversary date of the issuance of the patent. Each succeeding year that there is no development at the minimum production rate, the overriding royalty rate will increase an additional one percent at 0001 AM hours on the anniversary date of the patent issuance until it reaches a maximum eight percent royalty rate eighteen (18) years after issuance of the patent or it reaches the prevailing underground federal royalty rate, whichever is greater. Any royalty revenues accruing to the federal government under these conditions will be treated the same as royalty revenues under the Mineral Leasing Act whereby these revenues are shared with the State of Montana.

Copies of the Record of Decision will be available at each public library located in Musselshell, Yellowstone, Rosebud, Madison, Custer, Beaverhead, Deer Lodge, and Carbon Counties. In addition, copies will be available at libraries in Billings, Worden, Butte, Ennis, Colstrip, Forsyth, Helena, Miles City, and Roundup. Copies will be available upon request from the Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana, 59301. Telephone (406) 232-4331. Public reading copies will be available for review at the following BLM locations:

- Bureau of Land Management, Office of External Affairs, Main Interior Building, room 5600, 18th and C Streets, NW., Washington, DC 20240.
- Bureau of Land Management, Office of External Affairs, Montana State Office, 222 North 32nd Street, Billings, Montana 59107.
- Bureau of Land Management, Miles City District Office, West of Miles City, Miles City, Montana 59301.
- Bureau of Land Management, Butte District Office, 106 North Parkmont, Butte, Montana 59702.
- Bureau of Land Management, Dillon Resource Area, Obey Building, Dillon, Montana 59725.
- Bureau of Land Management, Garnet Resource Area, 3255 Fort Missoula Road, Missoula, Montana 59801.
- Bureau of Land Management, Billings Resources Area, 810 East Main Street, Billings, Montana 59106.

In accordance with this decision the following described federal coal estate has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716.

#### Principal Meridian Montana

T. 6 N., R. 27 E.,

Sec. 18, all; 20, all; 30, all.

Aggregating 1,913.72 acres of federal coal estate in Musselshell County.

T. 5 N., R. 27 E.,

Sec. 4, Lots 1, 2, 3, 4.

T. 6 N., R. 27 E.,

Sec. 28, all; 32, N½, SE¼; 34, N½, SW¼.

Aggregating 1,759.44 acres of federal coal estate in Yellowstone County. The above-described lands aggregate 3,673.16 acres of federal coal estate in the two counties.

In exchange for the federal coal estate in the above-described lands, the United States will acquire the following described private lands from Meridian Minerals Company, Englewood, Colorado.

#### Principal Meridian Montana

T. 8 S., R. 1 W.,

Sec. 15, All West of East Bank of River; 25, Part N½NE¼ lying East of West Bank.

T. 9 S., R. 1 W.,

Sec. 1, Lots 6, 7, SW¼NE¼.

Aggregating 697.45 acres of private lands in Madison County.

T. 1 N., R. 13 W.,

Sec. 9, SW¼, NW¼NW¼; 17, Part lying SE of C/L of Big Hole River; 19, Part lying SE of C/L of Big Hole River.

Aggregating 1,297.92 acres of private lands in Beaverhead County.

T. 1 N., R. 13 W.,

Sec. 17, Part W½NW¼ lying West of C/L of Big Hole River; 19, Part lying NW of C/L of Big Hole River.

Aggregating 177.56 acres of private lands in Deer Lodge County.

T. 9 S., R. 21 E.,

Sec. 1, Lots 1, 2, 3, 4; 3, Lots 2, 3, 4, S½N½, S½; 5 Lots 1, 2, 3, 4, S½N½, N½S½, S½SE¼; 7, all; 9, NE¼, N½NW¼, S½SW¼; 11, all; 13, Lots 3, 4; 15, N½, W½SW¼, E½SE¼, SW¼SE¼; 17, all; 19, all; 21, all; 23, all; 25, Lots 1, 2, 3; 27, all; 29, all; 31, Lots 1, 2, 3, 4; 33, Lots 1, 2, 3, 4.

Aggregating 7,700.26 acres of private lands in Carbon County. The above-described private lands that the United States will acquire in the exchange aggregate 9,873.19 acres in the four counties.

**SUPPLEMENTARY INFORMATION:** The United States will acquire 9,873.19 acres of private lands in Madison, Beaverhead, Deer Lodge, and Carbon Counties from Meridian for 3,673.16 acres of federal coal estate in Musselshell and Yellowstone Counties, Montana. The federal coal estate to be exchanged to Meridian contains 54.5

million tons of coal of which 43.6 million tons of coal are recoverable by the longwall mining operation or 27.3 million tons of coal are recoverable by the room-and-pillar mining operation.

The federal coal estate to be exchanged has a fair market value of \$730,000; whereas, the private lands to be acquired have a fair market value of \$1,149,700. The difference in value accruing to the United States is a donation from Meridian.

The publication of this notice segregates the locatable mineral estate in the lands described above from location and entry under the mining laws, but not from exchange, pursuant to section 206 of FLPMA for a period of 2 years from the date of first publication.

This exchange is consistent with sections 205 and 206 of FLPMA (43 U.S.C. 1716), as well as the Miles City and Butte District land-use plans which address management of the public lands and resources in the resource areas involved. There were also no inconsistencies with previous land-use planning decisions.

Public involvement and participation occurred throughout the EIS and exchange process and is in conformance with current planning, land exchange and coal exchange regulations (43 CFR parts 1600, 2200, and 2203). Public interest factors, as outlined in BLM Manual 2200.06B, were considered and addressed in the Record of Decision. BLM has determined the public interest is well served by the decision to consummate the exchange with the conditions outlined in the Record of Decision.

The exchange will be made subject to:

1. The conditions outlined in the Record of Decision on underground mining, unsuitable areas, and the development clause.
2. A reservation to the United States of all remaining minerals, except the coal estate in the lands to be transferred to Meridian, together with the right to explore, prospect for, mine and remove same under all applicable laws and regulations.
3. A reservation to Meridian of the oil and gas estate and all rights and interests pertaining thereto on all the lands being transferred to the United States. The entire remaining mineral estate together with the right to explore, prospect for, mine and remove same will be transferred to the United States on said lands.
4. A restriction will be placed on the lands being transferred to the United States in Madison, Beaverhead, and Deer Lodge Counties which will provide for a no surface occupancy



stipulation for oil and gas development.

5. This exchange will be made subject to all valid existing rights and reservations of record on all lands and interests in land to be transferred.

**FOR FURTHER INFORMATION CONTACT:**

Information related to the exchange, including the Final Environmental Impact Statement and Record of Decision, is available for review at the Bureau of Land Management, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

**DATES:** For a period of 45 days from the date of publication of this notice in the *Federal Register*, interested parties may submit comments to the Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107-6800. Any adverse comments will be evaluated by the BLM and this realty action may be sustained, vacated, or modified. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: January 30, 1991.

Thomas P. Lonnie,  
Acting State Director.

[FR Doc. 91-2708 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-DN-M

[G-010-G1-0103-3110-10-G202; NMNM 80745]

**Issuance of Exchange Conveyance Document; New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The United States issued an exchange conveyance document to New Mexico and Arizona Land Company on August 22, 1990, for the surface and mineral interests in the following described land located in Dona Ana County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) and section 502 of the Act of December 31, 1987 (101 Stat. 1544):

New Mexico Principal Meridian, New Mexico.

T. 23 S., R. 1 E.,

Sec. 28, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$

SW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$

SW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
and SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$   
NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , and  
SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

Containing 305.00 acres.

In exchange for the above-described and mineral interests therein, New

Mexico and Arizona Land Company reconveyed to the United States the mineral interests in 62,073.10 acres in Cibola County, New Mexico. The legal land description for 59,513.18 acres of the reconveyed mineral interests was described in the Notice of Realty Action (NORA) published in the *Federal Register* (FR) on July 28, 1989, 54 FR 31389. The Additional 2,559.92 acres in secs. 1, 3, 11, and 13, T. 7 N., R. 13 W., were described in the NORA published in 54 FR 27762 on June 30, 1989.

The purpose of the exchange was to consolidate Federal mineral ownership for the Federal Government within El Malpais National Conservation Area (NCA) and National Monument (NM). The mineral interests acquired in the exchange will automatically become part of El Malpais NCA and NM without further action by the Bureau of Land Management and shall be managed in accordance with all laws, rules, and regulations applicable under section 502 of Public Law 100-225 of December 31, 1987, which established El Malpais NCA and NM.

The exchange was consistent with land ownership adjustments as set forth in the Record of Decision for the Rio Puerco Resource Management Plan approved January 16, 1986, the Southern Rio Grande Management Framework Plan, Plan Amendment approved December 1986, and section 502 of Public Law 100-225 of December 31, 1987. The public interest was served through completion of this exchange.

The value of the Federal public land and interests therein and the non-Federal mineral interests exchanged was equal.

Dated: January 28, 1991.

Larry L. Woodard,  
State Director.

[FR Doc. 91-3019 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-FB-M

[MT-070-01-4410-08]

**Garnet, Missoula and Powell Counties, Montana; Resource Management Plan Amendment**

**AGENCY:** Bureau of Land Management, Butte District Office, Interior.

**ACTION:** Notice of intent to prepare a Resource Management Plan Amendment to allocate resources and to designate management goals and guidelines for acquired lands located in the Garnet Resource Area, Montana.

**SUMMARY:** A Resource Management Plan Amendment/Environmental Assessment will be prepared on a proposal to allocate resources (land

uses) and to designate management goals and guidelines for lands acquired since the Garnet Resource Area Resource Management Plan (RMP) was approved in January 1986. The acquired lands consist of 12 tracts containing 5,748 acres scattered throughout the Garnet Resource Area.

The RMP provided for the acquisition of lands. Five separate Environmental Assessments were completed in the process of conducting the land exchanges resulting in the acquisition of 5,748 acres. The acquired lands need to be brought into conformance with the rest of the public lands covered by the RMP. The Amendment and Environmental Assessment are being done to analyze the environmental effects of land use allocation and assignment of management goals and guidelines on the 12 tracts. The action will entail coordination with adjacent landowners and local, County, State, and Federal agencies as well as with interested and/or affected publics.

**DATES:** A public scoping period will begin March 1, 1991 and end 30 days later on March 30, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Contact the Bureau of Land Management, Attention: DeLon Potter, 3255 Fort Missoula Road, Missoula, Montana 59801, Phone: 406-329-3824.

Dated: January 31, 1991.

James R. Owings,  
District Manager.

[FR Doc. 91-3047 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-DN-M

[MT-930-4214-11; MTM 014987, MTM 060295, MTM 069190, and MTM 20087]

**Proposed Continuation of Withdrawals; Montana**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Forest Service, Department of Agriculture, proposes that the withdrawal of approximately 2,038.89 acres of National Forest System (NFS) lands for recreation areas and a streamside zone continue for an additional 20 years. Those lands currently closed to surface entry will be opened to such forms of disposition as may by law be made of NFS lands. All the lands will remain closed to mining, but have been and would remain open to mineral leasing.

**EFFECTIVE DATE:** Comments should be received on or before May 9, 1991.



**FOR FURTHER INFORMATION CONTACT:**

James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

**SUPPLEMENTARY INFORMATION:** The U.S. Forest Service proposes that the existing withdrawals of NFS lands identified below be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714. The lands are described as follows.

**Principal Meridian Lolo National Forest**

(MTM 060295—PLO 3403)

Big Horn Recreation Area (42.50 acres)

T. 7 N., R. 16 W.,  
Sec. 6, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

Hutsinpillar Camp (5 acres)

T. 8 N., R. 17 W.,  
Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ .

Bitterroot Flat Camp (60 acres)

T. 8 N., R. 17 W.,  
Sec. 6, E $\frac{1}{2}$ SW $\frac{1}{4}$ , except that portion within HES 287.

Harry's Flat Camp (67.10 acres)

T. 9 N., R. 17 W. (unsurveyed—those portions lying outside the Welcome Creek Wilderness Area).  
Sec. 9, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 18, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , and W $\frac{1}{2}$ SW $\frac{1}{4}$ —NW $\frac{1}{4}$ ;  
Sec. 17, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

(MTM 069190—PLO 3687)

Norton Picnic Site (43.29 acres)

T. 10 N., R. 16 W.,  
Sec. 30, lot 10.  
T. 10 N., R. 17 W. (unsurveyed),  
Sec. 25, E $\frac{1}{2}$ SE $\frac{1}{4}$ , except that portion within HES 52, HES 798, and the Welcome Creek Wilderness Area.

(MTM 20087—PLO 5325)

Rock Creek Streamside Zone

A strip of land of variable width along Rock Creek in and through the following described subdivisions, and as shown on a map titled "Rock Creek Streamside Zone" dated May 1, 1971, copies of which are on file at the office of the Forest Supervisor, Lolo National Forest, Northern Region, Forest Service, U.S. Department of Agriculture, Missoula, Montana, and in the Montana State Office, Bureau of Land Management, Billings, Montana:

T. 7 N., R. 16 W. (133 acres),  
Secs. 6 and 7.  
T. 10 N., R. 16 W. (those portions lying outside the Welcome Creek Wilderness Area—93 acres),  
Secs. 6, 7, 18, 19, and 30.

T. 7 N., R. 17 W. (unsurveyed—40 acres),  
Secs. 1 and 2.

T. 8 N., R. 17 W. (unsurveyed—921 acres),  
Secs. 6, 7, 16, 17, 18, 20, 21, 22, 27, 28, 34, and 35.

T. 9 N., R. 17 W. (unsurveyed—those portions lying outside the Welcome Creek Wilderness Area—538 acres),  
Secs. 2, 3, 9, 10, 11, 16, 17, 19, 20, 29, 30, 31, and 32.

T. 10 N., R. 17 W. (unsurveyed—those portions lying outside the Welcome Creek Wilderness Area—56 acres),  
Secs. 25 and 36

**Kootenai National Forest**

(MTM 014987—PLO 1692)

Lake Creek Campground (40 acres)

T. 26 N., R. 30 W.,  
Sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The areas described aggregate approximately 2,038.89 acres in Granite and Lincoln Counties.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws. Some of the lands are also closed to operation of the general land laws. The only change requested by the Forest Service is to open those lands closed to operation of the general land laws to such forms of disposition as may by law be made of NFS lands.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Chief, Branch of Land Resources, at the address listed above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: January 31, 1991.

**Gary Leppart,**

*Acting Deputy State Director, Division of Lands and Renewable Resources.*

[FR Doc. 91-3020 Filed 2-7-91; 8:45 am]

**BILLING CODE 4310-DN-M**

[NV-930-91-4214-11; NEV-044346]

**Proposed Continuation of Withdrawals; Nevada**

January 28, 1991.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Forest Service proposes that 789 acres of a withdrawal on several recreation sites be continued for an additional 25 years. The lands will remain closed to surface entry and mining, but will be opened to mineral leasing.

**DATES:** Comments should be received by May 9, 1991.

**ADDRESSES:** Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

**FOR FURTHER INFORMATION CONTACT:** Vienna Wolder, Nevada State Office, 702-785-6526.

The U.S. Forest Service proposes that the existing withdrawal made by Public Land Order 1796 on the following described lands, be modified and continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

**Mount Diablo Meridian, Nevada**

T. 44 N., R. 39 E.,  
Sec. 24, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 45 N., R. 53 E.,  
Sec. 13, That portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  in Lot 7;  
Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
T. 44 N., R. 54 E.,  
Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 45 N., R. 54 E.,  
Sec. 18, S $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 19, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 45 N., R. 56 E.,  
Sec. 32, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 32 N., R. 58 E.,  
Sec. 6, W $\frac{1}{2}$  of Lot 1, E $\frac{1}{2}$  of Lot 2;  
Sec. 14, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 16, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .  
T. 46 N., R. 58 E.,  
Sec. 9, SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 32 N., R. 59 E.,  
Sec. 19, E $\frac{1}{2}$  of Lot 14, W $\frac{1}{2}$  of Lot 15;  
Sec. 30, W $\frac{1}{2}$  of Lot 1, E $\frac{1}{2}$  of Lot 2.  
T. 46 N., R. 59 E.,  
Sec. 13, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The areas described aggregate 789 acres in Elko County.

The withdrawal was established to protect specific U.S. Forest Service administrative and recreation sites. The



above described lands are currently used and developed for those purposes. The withdrawn lands are all within the Humboldt National Forest. The lands are segregated from the operation of the mining laws, but not the mineral leasing laws nor disposal of materials under the Act of July 31, 1947 (30 U.S.C. 601-604).

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the *Federal Register*. The existing withdrawals will continue until such final determination is made.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 91-3021 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-HC-M

#### Fish and Wildlife Service

##### Availability of a Draft Recovery Plan for the Cracking Pearlymussel for Review and Comment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and public comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the cracking pearlymussel. This freshwater mussel was once known from the Ohio, Cumberland, and Tennessee River systems in the States of Illinois, Indiana, Kentucky, Tennessee, Alabama, and Virginia. However, the species is presently known to survive only in Tennessee and Virginia at a few shoals in the Clinch, Powell, and Elk Rivers. The Service solicits review and comment from the public on this draft plan.

**DATES:** Comments on the draft recovery plan must be received on or before April 9, 1991, to receive consideration by the Service.

**ADDRESSES:** Persons wishing to review the draft recovery plan may obtain a

copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, room 224, Asheville, North Carolina 28801. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Biggins at the above address (704/259-0321; FTS 672-0321).

##### SUPPLEMENTARY INFORMATION:

##### Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the cracking pearlymussel (*Hemistena* (= *Lastena*) *lata*). The areas of emphasis for recovery actions are the major tributaries of the Ohio River system in the States of Illinois, Indiana, Kentucky, Tennessee, Alabama, and Virginia. Habitat protection, reintroduction, and preservation of genetic material are major objectives of this recovery plan.

##### Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified

above will be considered prior to approval of the plan.

**Authority:** The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 30, 1991.

Brian P. Cole,

Field Supervisor.

[FR Doc. 91-3015 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-55-M

##### Availability of a Draft Recovery Plan for the Fanshell Mussel for Review and Comment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and public comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the fanshell mussel. This freshwater mussel was once known from the Ohio, Cumberland, and Tennessee River systems in the States of Pennsylvania, West Virginia, Ohio, Illinois, Indiana, Kentucky, Tennessee, Alabama, and Virginia. However, the species is presently known to be reproducing in the Green and Licking Rivers in Kentucky and the Clinch River in Tennessee and Virginia. The Service solicits review and comment from the public on this draft plan.

**DATES:** Comments on the draft recovery plan must be received on or before April 9, 1991, to receive consideration by the Service.

**ADDRESSES:** Persons wishing to review the draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, room 224, Asheville, North Carolina 28801. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Biggins at the above address (704/259-0321; FTS 672-0321).

##### SUPPLEMENTARY INFORMATION:

##### Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery



effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the fanshell mussel (*Cyprogenia stegaria* (= *C. irrorata*)). The areas of emphasis for recovery actions are the major tributaries of the Ohio River system in the States of Pennsylvania, West Virginia, Ohio, Illinois, Indiana, Kentucky, Tennessee, Alabama, and Virginia. Habitat protection, reintroduction, and preservation of genetic material are major objectives of this recovery plan.

#### Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

**Authority:** The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 31, 1991.

Brian P. Cole,

Field Supervisor.

[FR Doc. 91-3016 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-55-M

#### National Park Service

##### Proposed Lakeshore Road Improvements; Lake Mead National Recreation Area; Intent To Prepare an Environmental Impact Statement

**SUMMARY:** In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service, Lake Mead

National Recreation Area, is preparing an environmental impact statement to assess the impacts of improving Lakeshore Road. The proposal would be to improve 12.4 miles of the road in three phases. Phase 1 is 5.7 miles of road rehabilitation from the Alan Bible Visitor Center to the fish hatchery. Phase 2 is 3.1 miles of road rehabilitation from Las Vegas Wash to the National Recreation Area boundary near Henderson, Nevada, and Phase 3 would include either the reconstruction of a 3.6 mile middle segment of the road or as an alternative, relocation of this section of road closer to Lake Mead.

The environmental impact statement will assess a no action alternative, a rehabilitation alternative (phases 1 and 2) with reconstruction of the middle segment (phase 3) on its existing alignment, and another rehabilitation alternative (phases 1 and 2) with relocation of the middle segment closer to the lake.

Persons wishing to comment upon or provide input to the scoping process for the environmental statement should provide such comments to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, within 30 days from the date of publication of this notice. For further information contact the Superintendent, Lake Mead National Recreation Area, at the above address or at telephone number (702) 293-8920.

The responsible official is Stanley Albright, Regional Director, Western Regional Office. The draft environmental statement is expected to be completed and available for public review by August, 1991, and the final Environmental Impact Statement and Record of Decision anticipated by spring, 1992.

Dated: January 31, 1991.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 91-3069 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-70-M

##### George Washington Memorial Park, Virginia and District of Columbia and the Clara Barton Parkway, Maryland; Intention To Hold a Public Information Open House

**SUMMARY:** There will be an informational open house held on February 21, 1991 at the McLean Community Center, located at 1234 Ingleside Avenue (off of Route 123) in McLean, Virginia. The open house will be held between 5:30 p.m. and 8:30 p.m.

The focus of the open house will be to provide information about future

projects that will improve safety conditions on the parkways. Representatives from the National Park Service and the Federal Highway Administration will be on hand to answer any questions or concerns.

For further information, please contact the Superintendent, George Washington Memorial Parkway, c/o Turkey Run Headquarters, McLean, Virginia 22101.

Dated: February 4, 1991.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 91-3068 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-70-M

#### National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 26, 1991. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by February 25, 1991.

Carol D. Shull,

Chief of Registration, National Register.

#### KENTUCKY

##### Fayette County

*Fayette County Rural Historic District*, Roughly bounded by Rice, Van Meter, Elk Chester, Yarnallton, Leestown and Viley Rds. and US 60, Lexington vicinity, 91000154

*Redd Road Rural Historic District*, Area largely S and E of jct. of Redd Rd. and Frankfort Rd., Lexington vicinity, 91000153

#### MONTANA

##### Missoula County

*DeSmet Schoolhouse*, 6105 Old Hwy. 10 W., Missoula, 91000151

##### Toole County

*US Customs Building*, I-15 just S of US—Canada border, Sweetgrass, 91000152

#### OREGON

##### Baker County

*Antlers Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS)*, SE of Whitney, Wallowa—Whitman NF, Whitney vicinity, 91000166

##### Douglas County

*Tiller Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS)*, OR 227, Umpqua NF, Tiller, 91000162



**Jackson County**

*Lodgepole Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), SE of Prospect, Rogue R. NF, Butte Falls vicinity, 91000164*

*Star Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), E of Applegate R., Rogue R. NF, Ruch vicinity, 91000168*

**Josephine County**

*Grants Pass Supervisor's Warehouse (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), 200 NE. Greenfield Rd., Grants Pass, 91000163*

**Lane County**

*Musick Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), NE of Bohemia Mtn., Umpqua NF, Cottage Grove vicinity, 91000170*

**Marion County**

*Marion Forks Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), OR 22, Willamette NF, Marion Forks, 91000167*

*Olallie Lake Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), S of Pinhead Buttes, Mt. Hood NF, Estacada vicinity, 91000169*

**Wallowa County**

*Billy Meadows Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), NE of Red Hill summit, Wallowa-Whitman NF, Joseph vicinity, 91000161*

*College Creek Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), Imnaha R., Wallowa-Whitman National Forest, Imnaha vicinity, 91000171*

*Kirkland Lookout Ground House (Guard Station) (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), E of Joseph Cr., Wallowa-Whitman NF, Joseph vicinity, 91000165*

**Washington County**

*Schulmerich, Edward, House, 614 E. Main St., Hillsboro, 91000050*

**WASHINGTON****Chelan County**

*Lake Wenatchee Residence No. 1200 (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), WA 207, N shore of Lake Wenatchee, Wenatchee NF, Leavenworth vicinity, 91000158*

*Lucerne Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), S shore of Lake Chelan, Wenatchee NF, Lucerne, 91000160*

*Steliko Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), E of*

*Entiat R., Wenatchee NF, Ardenvoir vicinity, 91000159*

*Stevens Pass Guard Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), 1-2, at Stevens Pass, Skyomish vicinity, 91000156*

**King County**

*North Bend Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), 42404 SE. North Bend Way, North Bend, 91000157*

**Shohomish County**

*Darrington Ranger Station (USDA Forest Service Administrative Buildings in Oregon and Washington Built by the CCC MPS), 1405 Emmens St., Darrington, 91000155*

**WISCONSIN****Waukesha County**

*Buckley, Patrick J., House, 1101 Buckley St., Waukesha, 91000075*

[FR Doc. 91-3070 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-70-M

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-319]

**Certain Automotive Fuel Caps and Radiator Caps; Commission Determination Not To Review an Initial Determination Terminating a Respondent on the Basis of a Settlement Agreement**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

In the matter of certain automotive Fuel Caps and Radiator Caps and Related Packaging and Promotional Materials.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) in the above-captioned investigation terminating respondent Transworld Products, Inc. on the basis of a settlement agreement.

**FOR FURTHER INFORMATION CONTACT:** Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1098.

**SUPPLEMENTARY INFORMATION:** On December 17, 1990, complainant Stant, Inc. filed a motion to terminate respondent Transworld Products, Inc. in the investigation on the basis of a settlement agreement between complainant and respondent Transworld Products, Inc. The motion was supported by the Commission

investigative attorneys and opposed by respondents Gin Seng Industrial Co., Ltd. and Chieftain Uniworld Corp. On January 4, 1991, the presiding ALJ issued an ID (Order No. 6) terminating respondent Transworld Products, Inc. on the basis of the settlement agreement. No petitions for review, or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: February 1, 1991.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 91-3052 Filed 2-7-91; 8:45 am]

BILLING CODE 7020-02-M

**INTERSTATE COMMERCE COMMISSION**

**Intent To Engage in Compensated Intercompany Hauling Operations**

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercompany hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: ETI Explosives Technologies International, Inc., Rockwood Office Park, Bldg. No. 1, 501 Carr Road, Wilmington, DE 19809.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Blastrite services Inc., incorporated—SC.

(ii) Atlanta Explosives, Inc., incorporated—GA.

(iii) Beattie Explosives, Inc., incorporated—ID.

(iv) Southern Explosives Corp., incorporated—KY.

(v) Contract Carrier, Inc., incorporated—MO.

(vi) Keystone Explosives, Inc., incorporated—PA.



(vii) Prater Company, Inc., a corporation—OH.

(iix) ETI of California, Inc., incorporated—CA.

(ix) DECO Services, Inc., dba Danbury Explosives, dba Commonwealth Explosives, a corporation—CT.

(x) Explosives Energy Inc., dba Arkansas Explosives, incorporated—AR.

(xi) Explo-Tech Inc., incorporated—PA.

B. 1. Parent corporation and address of principal office: Jupiter Corp. Transportation Systems, 4316 39th Avenue, Kenosha, WI 53144.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Equipment Transfer, Inc., state of incorporation: Illinois.

(ii) Corp. Transportation Equipment, State of incorporation: Illinois.

C. 1. Parent corporation, address of principal office, and state of incorporation: Universal Packaging Corporation, address: Hall Street, Bow, NH 03304, state of incorporation: Delaware.

2. Wholly-owned subsidiary which will participate in the operations, address of principal office, and state of incorporation:

(i) Universal Bow Transport, Inc., state of incorporation: Delaware.

D. 1. Parent corporation and address of principal office: Woolworth Corporation, 233 Broadway, New York, New York 10279.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(i) F.W. Woolworth Co., state of incorporation: New York.

(ii) Kinney Shoe Corporation, state of incorporation: New York.

(iii) The Richman Brothers Company, state of incorporation: Ohio.

(iv) Holtzman's Little Folk Shop, Inc., state of incorporation: California.

(v) RX Place, state of incorporation: Delaware.

(vi) F.W. Woolworth Co. Limited (Canada), Toronto, Ontario, Canada.

(vii) Kinney Canada Inc., Weston, Ontario, Canada.

(viii) F.W. Woolworth Co. G.M.B.H., Buerostadt Niederrad, West Germany.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3081 Filed 2-7-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-335 (Sub-No. 4X)]

# **KCT Railway Corp.—Abandonment Exemption—In Otero County, CO; Exemption**

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonment* to abandon its 2-mile line of railroad between mileposts 93+0908 and 91+1742, and 14,648 feet of industrial track, near Swink, in Otero County, CO.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complaint within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 13, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 21, 1991.<sup>3</sup> Petitions for reconsideration and

<sup>1</sup> A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See *Exempt. of Rail Abandonment—Offers of Fin. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

requests for public use conditions under 49 CFR 1152.28 must be filed by March 4, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Suzanne M. Te Beau, Weiner, McCaffrey, Brodsky, Kaplan & Levin, P.C., suite 800, 1350 New York Avenue NW., Washington, DC 20005-4797.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The section of Energy and Environment (SEE) will prepare an environmental assessment (EA) SEE will issue the EA by February 1, 1991.

Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 5, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3082 Filed 2-7-91; 8:45 am]

BILLING CODE 7035-01-M

## **DEPARTMENT OF JUSTICE**

### **Lodging of Consent Decree, Clean Air Act**

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on January 29th, 1991, a proposed consent decree in *NRDC v. Elkem Metals Co.* Civil Action Number 5:87-0799, and *U.S. v. Elkem Metals Co., et al.* Civil Action Number 5:88-0619, was lodged with the United States District Court for the Southern District of West Virginia. The proposed consent decree resolves consolidated judicial enforcement actions brought by the United States and the National Resource Defense Council, Inc. against Elkem Metals Company, Elkem Management, Inc., Jebbens Metals, Inc., Ferro Invest I, Inc., and Ferro Invest II, Inc. under Clean Water Act, 33 U.S.C. 1251 *et seq.*,



for violations of National Pollutant Discharge Elimination System Permits ("NPDES Permits").

In this consolidated action filed by NRDC in July 1987, and joined by the United States on May 13, 1988, the Plaintiffs sought injunctive relief and civil penalties for violations by Defendant of NPDES Permits at its Alloy, West Virginia silicon metal and ferro alloy manufacturing facility. The proposed consent decree requires that Defendant pay a total sum of \$130,000 in penalties in satisfaction of and to settle the claims raised against the defendants in this lawsuit, payment of attorneys fees to NRDC, and injunctive relief requiring implementation and completion of a remedial construction program.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Elkem Metals et al*, D.J. Ref. 90-5-1-1-3075.

The proposed consent decree may be examined at the Office of the United States Attorney, United States Courthouse, 500 Quarrier Street, Charleston, West Virginia 25332 and at the Region III Office of the United States Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. The decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$1.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-3022 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-01-M

#### Consent Judgment in Action to Enjoin Violation of the Clean Air Act ("CAA")

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States v. Wisconsin Tissue Mills, Inc.* ("WTM"), (E.D. Wis.), Civil Action No. 90-C-1145 was lodged with the United States District Court for the Eastern District of Wisconsin on

November 30, 1990. The Consent Decree provides for penalties for construction of a major stationary source of air pollution without first obtaining a permit and requires WTM to continually comply with the best available control technology for volatile organic compounds as required by section 165(a)(4) of the Clean Air Act, 42 U.S.C. 7475(a)(4), CFR 52.21(j), and Air Pollution Control Permit, No. 88 DLT-023 issued to WTM on April 26, 1990.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530 and should refer to *United States v. Wisconsin Tissue Mills, Inc.*, D.O.J. Ref. No. 90-5-2-1-1368.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Wisconsin, Federal Building, 517 E. Wisconsin Ave., room 330, Milwaukee, Wisconsin; at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of \$3.75 (25 cents per page reproduction charge) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-3023 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-01-M

#### Drug Enforcement Administration

##### K-9 Drug Detection Service of Florida, Inc., Denial of Application for Registration

On October 16, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to K-9 Drug Detection Services of Florida, Inc. (K-9), of 1028 Shallow Run Road, Sarasota, Florida 34240, proposing to deny its application, executed on May 5, 1989, for registration as a researcher under 21 U.S.C. 823(f).

The Order to Show Cause alleged that K-9's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was sent to K-9 by registered mail. More than thirty days have passed since the Order to Show Cause was received by K-9, and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), K-9 Drug Detection Services of Florida, Inc. is deemed to have waived its opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that K-9 sought registration as a researcher in order to open a canine training facility. Such facility would then be used as a private drug detection service, allowing private citizens to employ K-9 to search out drugs in their homes or businesses. The Administrator finds that K-9 provided no procedures for reporting any findings of illicit drugs to law enforcement officials.

The Administrator further finds that the owners of K-9, Stephen C. Hamel and Ann Marie Shenko, are the only employees of the facility and admittedly have no law enforcement training, nor has either individual completed a narcotic detection program. The Administrator finds that both the Sarasota County Sheriff's Department and the Sarasota Police Department have narcotics detection trained canines of sufficient numbers to service any needs of private citizens.

No evidence has been forwarded on behalf of Respondent; therefore, the Administrator concludes that K-9 lacks sufficient trained employees to serve any public interest and that such a facility as that proposed is not needed in the area. Based on the above, the Administrator concludes that K-9 Drug Detection Services of Florida, Inc.'s registration with DEA would be inconsistent with the public interest, and therefore, the application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application of K-9 Drug Detection Services of Florida, Inc., executed on May 5, 1989, for registration under the Controlled Substances Act, be, and it hereby is, denied.

This order is effective March 11, 1991.



Dated: February 4, 1991.

**Robert C. Bonner,**  
*Administrator.*

[FR Doc. 91-3057 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 90-41]

**Michael J. Schnitzer, M.D.; Hearing,  
San Diego, CA**

Notice is hereby given that on April 4, 1990, the Drug Enforcement Administration, Department of Justice, issued to Michael J. Schnitzer, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS2919542, and deny any pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on February 21, 1991, commencing at 9:30 a.m., at the Superior Court, 720 9th Street, Sacramento, California.

Dated: Feb. 4, 1991.

**Robert C. Bonner,**  
*Administrator, Drug Enforcement  
Administration.*

[FR Doc. 91-3056 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-09-M

**Jose M. Tombo, M.D.; Revocation of  
Registration**

On October 16, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jose M. Tombo, M.D. of 16778 Plainview, Detroit, Michigan 48219, proposing to revoke his DEA Certificate of Registration, AT5972763, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Dr. Tombo's continued registration is inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

The Order to Show Cause was sent to Dr. Tombo by registered mail. More than thirty days have passed since the Order to Show Cause was received by Dr. Tombo and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Jose M. Tombo, M.D. is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now

enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that on March 20, 1989, the State of Michigan Department of Licensing and Regulation Board of Medicine issued a final order revoking the medical license of Dr. Jose M. Tombo, effective April 19, 1989. Such revocation was based on findings by the Board that Dr. Tombo engaged in sexual relationships with patients while on staff at a Michigan psychiatric facility, thereby constituting immoral conduct and departure from or failure to conform to minimal standards of acceptable practice of medicine.

The Administrator finds that Respondent is not authorized to practice medicine in the State of Michigan. Therefore, the Administrator concludes that Dr. Martin's continued registration with DEA is inconsistent with the public interest, and therefore, his DEA Certificate of Registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AT5972763, previously issued to Jose M. Tombo, M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective February 8, 1991.

**Robert C. Bonner,**  
*Administrator.*

Dated: February 4, 1991.

[FR Doc. 91-3055 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Employment Standards Administration, Wage and Hour Division

#### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar

character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the *Federal Register*, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is



encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

#### Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the *Federal Register* are in parentheses following the decisions being modified.

##### Volume I

New Jersey, NJ90-3 (Jan. 5, 1990). p. 685.  
p. 688.

##### Volume II

Indiana, IN90-6 (Jan. 5, 1990) .. p. 303.  
pp. 304, 309.  
New Mexico, NM90-1 (Jan. p. 747.  
5, 1990). pp. 748-751,  
757.

##### Volume III

Colorado  
CO90-1 (Jan. 5, 1990)..... p. 107.  
pp. 108-109.  
CO90-5 (Jan. 5, 1990)..... p. 132a.  
p. 132b.  
Oregon, OR90-1 (Jan. 5, p. 309.  
1990). p. 323.

#### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office,  
Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about

January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC This 31st Day of January 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91-2822 Filed 2-7-91; 8:45 am]

BILLING CODE 4510-27-M

#### SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act Release No. 34-28846]

#### Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of establishment of the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee.

**SUMMARY:** The Chairman of the Commission, with the concurrence of the other members of the Commission, has established the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee which will advise the Commission on steps that should be taken by the Commission to improve the monitoring and regulation of financial services holding companies and affiliates and to promote competition and innovation among financial services providers.

**DATES:** February 4, 1991.

#### FOR FURTHER INFORMATION CONTACT:

David Mahaffey, Assistant General Counsel, or Miriam Goldstein, Attorney, (202) 272-2428, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

#### SUPPLEMENTARY INFORMATION:

In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. app. I, and the regulations thereunder, the Commission has ordered publication of this notice that Chairman Richard C. Breeden, with the concurrence of the other members of the Commission, has established an advisory committee, under the Federal Advisory Committee Act, which is designated the "Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee." Chairman Breeden certifies that he has considered the establishment of this Committee and, with the concurrence of the other

members of the Commission, has found the creation of this Committee to be in the public interest. The Committee's charter directs the Committee to advise the Commission and make recommendations concerning possible regulatory initiatives and legislative proposals necessary to improve the monitoring and regulation of financial services holding companies and affiliates and to promote competition and innovation among financial services providers. Matters to be considered by the Advisory Committee include the following:

1. Monitoring systems and guidelines for assessing the financial condition, risk exposure, and systems of risk management of broker-dealers, other financial services providers, and their respective holding companies and affiliates;
2. Recommended revisions to or restructuring of the regulatory framework for financial services providers and financial services holding companies, with emphasis on promoting competition, innovation, efficiency, safety, and customer protection; and
3. The appropriate means of implementing the Advisory Committee's recommendations, including possible amendments to the federal securities laws, the Glass-Steagall Act, the Bank Holding Company Act of 1956, and related statutes and rules.

The Advisory Committee shall conduct its operations in accordance with the provisions of the Federal Advisory Committee Act.

The duties of the Committee shall be solely advisory and shall extend to submitting reports and recommendations to the Commission. Determinations of action to be taken and policy to be expressed with respect to the recommendations of the Advisory Committee shall be made solely by the Commission.

The Securities and Exchange Commission shall provide any necessary support services required by the Advisory Committee.

The Advisory Committee shall meet at such intervals as are necessary to carry out its functions. It is expected that meetings of the full Advisory Committee generally will occur no more frequently than monthly.

The Advisory Committee shall terminate at the end of 24 months from the date of its establishment unless, prior to such time, its charter is renewed in accordance with the Federal Advisory Committee Act, or unless the Chairman, with the concurrence of the other members of the Commission, determines that continuance of the



Advisory Committee is no longer in the public interest.

Concurrent with publication of this notice in the *Federal Register*, a copy of the charter of the Committee will be filed with the Chairman of the Commission, the House Committee on Energy and Commerce and the Senate Committee on Banking, Housing, and Urban Affairs. A copy of the charter will concurrently be furnished to the Library of Congress and be placed in the Commission's Public Reference Room for public inspection.

By the Commission.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-3028 Filed 2-7-91; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2475; Amdt. #1]

### Alabama With Contiguous Counties in Tennessee, Mississippi & Georgia; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated January 9, 1991, to the President's major disaster declaration of January 4, to include the Counties of Limestone and Marshall in the State of Alabama as a disaster area as a result of damages caused by severe storms and flooding beginning December 21, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous County of Etowah in the State of Alabama may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 4, 1991, and for economic injury until the close of business on October 4, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 15, 1991.

Alfred E. Judd,  
Acting Assistant Administrator, for Disaster Assistance.

[FR Doc. 91-3036 Filed 2-7-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2477; Amdt. 1]

### Indiana, (With Contiguous Counties in Ohio, Kentucky, Michigan, & Illinois); Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated January 11, 12, and 15, 1991, to the President's major disaster declaration of January 5, to include the Counties of Boone, Floyd, Fountain, Hancock, Harrison, Jasper, Jefferson, Scott, Starke, Steuben, Switzerland, and Warren in the State of Indiana as a disaster area as a result of damages caused by severe storms and flooding beginning December 28, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous County of Crawford in the State of Indiana; Bullitt, Carroll, Gallatin, Hardin, and Meade Counties in the State of Kentucky; and Branch and Hillsdale Counties in the State of Michigan may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The economic injury numbers are 7229 for the State of Indiana; 7228 for the State of Kentucky; and 7231 for the State of Michigan.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 7, 1991, and for economic injury until the close of business on October 7, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 18, 1991.

Alfred E. Judd,  
Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-3037 Filed 2-7-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2474; Amdt. 1]

### Mississippi, With Contiguous Counties in Louisiana & Alabama; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated January 10 and 14, 1991, to the President's major disaster declaration of January 3, to include the Counties of Harrison and Simpson in the State of Mississippi as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding, and to

establish the incident period as beginning December 19, 1990 and continuing through January 14, 1991.

In addition applications for economic injury loans from small businesses located in the contiguous Counties of Copiah, Covington, Hancock, Jackson, Jefferson Davis, Lawrence, Pearl River, Smith, and Stone in the State of Mississippi may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 3, 1991, and for economic injury until the close of business on October 3, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 15, 1991.

Alfred E. Judd,  
Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-3038 Filed 2-7-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2476; Amdt. # 1]

### Tennessee, With Contiguous Counties in MO, AR, KY, MS, NC, & GA; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated January 4, 8, 10, 12, and 15, 1991, to the President's major disaster declaration of January 4, to include the Counties of Anderson, Bedford, Coffee, Grundy, Hardin, Jackson, Lauderdale, Morgan, Polk, and Roane in the State of Tennessee as a disaster area as a result of damages caused by severe storms and flooding beginning on December 19, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Bradley, Campbell, Cannon, Chester, Clay, Decatur, Haywood, Henderson, Knox, Loudon, Macon, McMinn, McNairy, Monroe, Rutherford, Smith, Tipton, Union, and Wayne in the State of Tennessee; Alcorn County in the State of Mississippi; Cherokee County in the State of North Carolina; and Fannin, Murray, and Whitfield Counties in the State of Georgia may be filed until the specified date at the previously designated location.



Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The economic injury numbers 722400 for the State of Tennessee; 722000 for the State of Mississippi; 723300 for the State of North Carolina; and 722500 for the State of Georgia.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 4, 1991, and for economic injury until the close of business on October 4, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 17, 1991.

**Alfred E. Judd,**

*Acting Assistant Administrator for Disaster Assistance.*

[FR Doc. 91-3039 Filed 2-7-91; 8:45 am]

BILLING CODE 8025-01-M

#### [Declaration of Disaster Loan Area #2476]

#### Tennessee (With Contiguous Counties in Missouri, Arkansas, and Kentucky); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 4, 1991, and an amendment thereto on January 7, I find that the Counties of Bledsoe, Cumberland, Dyer, Fentress, Franklin, Gibson, Lincoln, Marion, Obion, Rhea, Van Buren, and Warren in the State of Tennessee constitute a disaster area as a result of damages caused by severe storms and flooding beginning on December 19, 1990. Applications for loans for physical damage may be filed until the close of business on March 4, 1991, and for loans for economic injury until the close of business on October 4, at the address listed below: Disaster Area of 2 Office—Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308 or other locally announced locations. In addition, applicants for economic injury loans from small businesses located in the contiguous counties of Bedford, Carroll, Coffee, Crockett, Giles, Grundy, Lake Hamilton, Lauderdale, Madison, Marshall, Meigs, Moore, Morgan, Overton, Pickett, Putnam, Roane, Scott, Sequatchie, Weakley, and White the State of Tennessee; Pemiscot County in the State of Missouri; Mississippi County in the State of Arkansas; and Fulton, Graves and Hickman Counties in the State of Kentucky may be filed until the specified date at the above location.

Any counties contiguous to the above-named primary counties and not listed

herein are covered in a separate declaration for the same occurrence.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere.....	8.000
Homeowners without credit available elsewhere.....	4.000
Businesses with credit available elsewhere.....	8.000
Business and non-profit organizations without credit available elsewhere.....	4.000
Others (including non-profit organizations) with credit available elsewhere.....	9.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere.....	4.000

The number assigned to this disaster for physical damage is 247606 and for economic injury the numbers are 722400 for the State of Tennessee; 722600 for the State of Missouri; 722700 for the State of Arkansas; and 722800 for the State of Kentucky.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 11, 1991.

**Alfred E. Judd,**

*Acting Assistant Administrator for Disaster Assistance.*

[FR Doc. 91-3040 Filed 2-7-91; 8:45 am]

BILLING CODE 8025-01-M

#### DEPARTMENT OF STATE

##### Office of the Secretary

[Public Notice 1341]

#### Restriction on the Use of United States Passports for Travel To, In, or Through Iraq and Kuwait

Pursuant to the authority of section 211a of title 22 of the United States Code, Executive Order 11295 (31 FR 10603), and in accordance with § 51.73(a) (2) and (3) of title 22 of the Code of Federal Regulations, all United States passports, with the following exception, are declared invalid for travel to, in, or through Iraq and Kuwait unless specifically validated for such travel. I hereby conclude that it is in the national interest of the United States that these passport restrictions shall not apply to those American citizens now residing in Iraq and Kuwait nor to American professional reporters and journalists on assignment there.

This action is required by the fact that armed hostilities now are taking place in Iraq and Kuwait, and that the safety of

any American citizen travelling to those countries no longer can be guaranteed. The American Embassies in Baghdad and Kuwait are closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to either country.

In light of these events and circumstances, I have determined that Iraq and Kuwait are areas " \* \* \* where armed hostilities are in progress; or, a country \* \* \* in which there is imminent danger to the public health or physical safety of United States travelers" within the meaning of § 51.73(a) (2) and (3) of title 22 of the Code of Federal Regulations.

The Public Notice shall be effective upon publication in the *Federal Register* and shall expire at the end of one year unless sooner extended or revoked by Public Notice.

Dated: February 1, 1991.

**James A. Baker, III,**

*Secretary of State.*

[FR Doc. 91-3067 Filed 2-7-91; 8:45 am]

BILLING CODE 4710-10-M

#### DEPARTMENT OF TRANSPORTATION

##### Office of the Secretary

#### Provision of Aviation Insurance Coverage for Commercial Air Carrier Service; Secretarial Determination

February 4, 1991.

By virtue of the authority vested in me by Presidential Determination No. 90-29, issued August 14, 1990, and Presidential Determination 90-32, issued August 17, 1990, and by virtue of the authority set forth in section 1302 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. App. 1532, I hereby:

1. Determine, on behalf of the President, that continuation of commercial air services to and from Saudi Arabia, Turkey, Syria, Jordan, Egypt, Yemen, Oman, United Arab Emirates, Israel, Bahrain, Qatar, and Cyprus, and to and from Iraq and Kuwait to the extent permitted by Executive Orders Nos. 12724 and 12725, is necessary to carry out the foreign policy of the United States. Such commercial air services facilitate, in particular, actions in support of the United States and international response to the Iraqi invasion of Kuwait and the evacuation of American citizens from areas affected by the invasion. These services facilitate, in addition, the maintenance of normal political and commercial exchange with the countries of the region.



2. Approve, on behalf of the President, the Department of Transportation's provision of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in title XIII of the Act, 49 U.S.C. App. 1531, *et seq.*, whenever I have determined that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States.

These actions are taken in consultation with the Secretary of State with respect to section 1302 (a) and (c) of the Act, 49 U.S.C. App. 1532 (a) and (c), and in consultation with the Director of the Office of Management and Budget with respect to section 1302(c) of the Act, 49 U.S.C. App. 1532(c). Pursuant to section 1302(c) of the Act, 49 U.S.C. App. 1532(a), this Determination is effective for sixty days.

This Determination shall be brought to the attention of all air carriers within the meaning of section 101(3) of the Act, 49 U.S.C. App. 1301(3), and published in the Federal Register.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 91-3004 Filed 2-7-91; 8:45 am]

BILLING CODE 4910-62-M

## UNITED STATES INFORMATION AGENCY

### Promotion of Exchanges for People With Disabilities

**AGENCY:** United States Information Agency.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Educational and Cultural Affairs, U.S. Information Agency, announces its intention to award a grant of approximately \$70,000 to a private not-for-profit organization working to help integrate people with disabilities into international educational and cultural exchanges.

**DATES:** Deadline for proposals: Must be received by COB February 28, 1991. Duration: The duration of the grant should be for one year. The program may begin no earlier than June 1, 1991. No funds may be expended until the grant agreement is signed.

**ADDRESSES:** The original and twelve copies of the completed application should be submitted to the following office: U.S. Information Agency, Office of the Executive Director (E/X), room 336, 301 4th Street SW., Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** Interested U.S. organizations should write or call Ms. Bettye Stennis at the Youth Programs Division (E/VY), room 357, 301 4th Street SW., Washington, DC 20547; telephone 202-619-6299.

**SUPPLEMENTARY INFORMATION:** Programs are authorized under Public Law 87-256, the Mutual Educational and Cultural Exchange Act of 1961, whose purpose is "to increase mutual understanding between the people of the United States and the people of other countries." Programs under the authority of the Bureau must be balanced and representative of the diversity of American political, social, and cultural life. Programs and projects must conform with all Agency requirements and guidelines and are subject to final review by the USIA contracting officer.

Through this grant to a private not-for-profit organization, USIA will provide partial support to a clearing-house for information concerning international exchange for the disabled. The activity should promote the integration of people with disabilities into international educational exchanges. The grantee organization will provide advice and counsel to exchange organizations, schools and other public institutions on such areas as: homestay placements and arrangements for participants with disabilities; training of staff to work with disabled people; and resources and technical assistance for meeting accessibility needs. Further, the grantee organization will serve to educate disabled persons about opportunities available to them on a variety of international educational and cultural exchange programs. During this year of special focus on the bicentennial of the Bill of Rights and the Americans with Disabilities Act of 1990, the grantee organization will work through its established linkages with counterpart institutions in other countries to highlight the rule of law and the accomplishments of American organizations in the area of the rights of the disabled.

USIA grant funds are not intended to pay all costs of the program but rather to supplement the grantee's own resources, private, in-kind and other government contributions, and those of the participants.

Critical elements of the project that should be addressed in the institution's proposal include:

- The professional resources of the grantee organization, with special emphasis on its credentials and experience in planning and carrying out exchanges of people with disabilities.

- The international and domestic networks of exchange organizations and those that work with the disabled with which the grantee is affiliated.
- A timetable for planning and implementing the program.
- Written materials that the grantee has developed or plans to develop in pursuit of the goals and objectives of this program.

### Application Procedures

Interested organizations should write or call the Youth Programs Division (address provided above) to request detailed application packets, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific information on the contents of a complete application. Organizations in existence less than four years will only be eligible for grants under \$60,000. Experience programming exchange visitors is desirable.

### Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Eligible proposals will be forwarded to panels of USIA officers for advisory review in conformity with the criteria set forth herein and in the guidelines for preparing proposals prior to funding decisions by delegated officials. All proposals will also be reviewed by the Agency's Office of the General Counsel as well as other Agency offices. The Associate Director for Educational and Cultural Affairs identifies and approves potential grant recipients. Final technical authority for grant awards resides with the Agency Contracting Officer.

Completed applications will be reviewed according to the following criteria:

- a. Quality of the program plan and adherence of the proposed activity to the goals and objectives described above;
- b. Feasibility of the program plan and institutional capacity of the organization to conduct the program;
- c. Track record—the agency will consider the past performance of prior grantees and the demonstrated potential of new applicants;
- d. Multiplier effect/impact—the impact of the grant-funded activity on the wider community and on the development of continuing institutional ties;
- e. Value to U.S.-partner country relations—the assessment of USIA's geographic area offices of the potential



impact and significance of the project abroad;

f. Cost effectiveness—greatest return on each grant dollar and degree of cost-sharing exhibited;

#### Notification

All applicant's will be notified of the results of the review process on or about April 15, 1991. Funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: January 29, 1991.

Warren J. Obluck,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91-3000 Filed 2-7-91; 8:45 am]

BILLING CODE 8230-01-M

#### Central/Eastern European Initiative Support for Private Sector English Teaching Efforts

**AGENCY:** United States Information Agency.

**ACTION:** Notice.

**SUMMARY:** Under the auspices of U.S. Special Assistance to Central and Eastern Europe, the Bureau of Educational and Cultural Affairs, U.S. Information Agency, announces its intention to award grants to private and public universities and organizations for programs involved in sending teachers of English to Central and Eastern European countries. The affected countries are Hungary, Poland, Bulgaria, Czechoslovakia, Romania and Yugoslavia. Subject to the availability of funds, USIA plans to award one or more grants. Individual grants are expected to be in the range of \$50,000 to \$100,000, although USIA reserves the right to award grants outside this range.

**DATES:** *Deadline for proposals:* Must be received by COB March 11. *Duration:* The duration of the grant should be from six months to fifteen months. Programs should begin no earlier than May 1, 1991. No funds may be expended until the grant agreement is signed.

**ADDRESSES:** The original and twelve copies of the completed application should be submitted to the following office: U.S. Information Agency, Office of the Executive Director (E/X), room 336, 301 4th Street SW., Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** Interested U.S. organizations should write or call Ms. Bettye Stennis at the Youth Programs Division (E/VY), room 357, 301 4th Street SW., Washington, DC 20547; telephone 202-619-6299.

**SUPPLEMENTARY INFORMATION:** Programs are authorized under Public Law 87-256,

the Mutual Educational and Cultural Exchange Act of 1961, whose purpose is "to increase mutual understanding between the people of the United States and the people of other countries." Programs under the authority of the Bureau must be balanced and representative of the diversity of American political, social, and cultural life. Programs and projects must conform with all Agency requirements and guidelines and are subject to final review by the USIA contracting officer.

Through grants to U.S. universities and private organizations, subject to the availability of funds, USIA seeks to support the teaching of English as a vehicle to developing democracies in the countries of Central and Eastern Europe. Grantee organizations would work through their established linkages with counterpart institutions in Hungary, Poland, Czechoslovakia, Bulgaria, Romania, and Yugoslavia in setting up programs to teach English to students and adults. Institutions that are the primary focus of these activities include universities, secondary schools and businesses. The American participants may be university students, professional teachers or others serving as volunteers or paid instructors. The minimum period of instruction for each project activity is 6 weeks. Projects may involve more than one host country.

The sending institution makes all arrangements for travel (including visas), payment of stipends and allowances, recruitment and selection of participants, and orientation. It also is responsible for identifying and making all arrangements with the host institution for the placement of the instructors, their housing, supervision and welfare.

USIA grant funds are not intended to pay all costs of the program but rather to supplement the grantee's own resources, private, in-kind and other government contributions, and those of the participants.

Critical elements of the project that should be addressed in the institution's proposal include:

—The professional resources of the grantee organization, with special emphasis on its credentials and experience in planning and carrying out teaching of English as a foreign language (EFL) programs.

—A description of the host country institution, the planned program of instruction, type of accommodations, support arrangements; and health and accident insurance coverage.

—The amount of stipends and/or allowances that will be provided to the instructors.

—A timetable for planning and implementing the program.

—Participant selection criteria and procedures that emphasize professional and personal qualities deemed essential for the success of the project's mission.

—Orientation programming—a thorough introduction to the goals and operation of the program, administrative procedures, the host society, with special emphasis on the educational system and climate, and issues important to relations between the U.S. and the host country.

—Evidence of a commitment to a long-term partnership with the host institution and to the teaching of English in Central and Eastern Europe.

#### Application Procedures

To be eligible for consideration organizations must be incorporated in the U.S., and have not-for-profit status as determined by the IRS. Organizations with four years or less experience in international exchange will only be eligible for grants under \$60,000.

Interested organizations should write or call the Youth Programs Division (address provided above) to request detailed application packets, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific information on the contents of a complete application.

#### Review Process

USIA will acknowledge receipt of all proposal and will review them for technical eligibility. Eligible proposals will be forwarded to panels of USIA officers for advisory review in conformity with the criteria set forth herein and in the guidelines for preparing proposals prior to funding decisions by delegated officials. All proposals will also be reviewed by the Agency's Office of the General Counsel as well as other Agency offices. The Associate Director for Educational and Cultural Affairs identifies and approves potential grant recipients. Final technical authority for grant awards resides with the Agency Contracting Officer.

Completed applications will be reviewed according to the following criteria:

a. Quality of the program plan and adherence of the proposed activity to the criteria and conditions described above;

b. Feasibility of the program plan and institutional capacity of the organization to conduct the program;

c. Track record—the Agency will consider the past performance of prior



grantees and the demonstrated potential of new applicants;

d. Multiplier effect/impact—the impact of the exchange activity on the wider community and on the development of continuing institutional ties;

e. Value to U.S.-partner country relations—the assessment of USIA's geographic area desk of the potential impact and significance of the project in the partner country(ies);

f. Cost effectiveness—greatest return on each grant dollar and degree of cost-sharing exhibited;

g. Geographic balance—proportional distribution of program activities within the U.S. and the partner countries.

h. Potential for beginning the program at an early date.

#### Notification

All applicants will be notified of the results of the review process on or about April 30, 1991. Funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: February 4, 1991.

Warren J. Obluck,

*Deputy Associate Director, Bureau of Educational and Cultural Affairs.*

[FR Doc. 91-2999 Filed 2-7-91; 8:45 am]

BILLING CODE 6230-01-M

#### NATO Project: Grants

**AGENCY:** United States Information Agency.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Educational and Cultural Affairs, U.S. Information Agency, announces its intention to award one grant of up to \$30,000 to a private not-for-profit organization to partially sponsor a delegation of young Americans to a 5-day meeting in Bogensee, Germany in October 1991 on the theme of "The Young Generation's Contribution to Safeguarding Democracy, Prosperity and Security in Europe." The purpose of this meeting is to encourage cooperation and dialogue among young people and foster new partnerships between Europeans, Canadians and Americans. A follow-up meeting in 1992 will likely be held in the U.S.

**DATES:** Deadline for proposals: Must be received by COB March 29, 1991. Duration: The duration of the grant will be six months. The earliest date on which grant-funded planning activities may begin is June 1. No funds may be expended until the grant agreement is signed.

**ADDRESSES:** The original and twelve copies of the completed application

should be submitted to the following office: U.S. Information Agency, Office of the Executive Director (E/X), room 336, 301 4th Street SW., Washington, DC 20547.

#### FOR FURTHER INFORMATION CONTACT:

Interested U.S. organizations should write or call Ms. Bettye Stennis at the Youth Programs Division (E/VY), Office of International Visitors, room 357, 301 4th Street SW., Washington, DC 20547; telephone 202-619-6299.

**SUPPLEMENTARY INFORMATION:** Programs are authorized under Public Law 87-256, the Mutual Educational and Cultural Exchange Act of 1961, whose purpose is "to increase mutual understanding between the people of the United States and the people of other countries." Programs under the authority of the Bureau must be balanced and representative of the diversity of American political, social, and cultural life. Programs and projects must conform with all Agency requirements and guidelines and are subject to final review by the USIA contracting officer.

The main theme for the meeting is "The Young Generation's Contribution to Safeguarding Democracy, Prosperity and Security in Europe". Subordinate topics to be discussed include: Overcoming hostile perceptions among societies and within societies; position and role of European unions, states, regions and communes as well as their mutual relationships; ethnic and linguistic minorities, problems of multi-cultural societies; migration from east to west because of economic disparity—what can be done to bridge this gap; U.S. and Canadian relations with Europe—mutual expectations and hopes; how to prevent the needs/problems of the Third World from being overlooked because of the European problems.

The grantee organization will be responsible for: Recruiting and selecting a delegation of young Americans (aged 20-30) active and/or interested in European affairs; conducting a pre-departure orientation; travel arrangements; and any post-conference follow-up. Since the grant only covers partial costs, the grantee will also have to raise funds from other sources, and the participants will be expected to provide part of their airfare. Hosting costs in Germany will be covered by the Germans. The grantee organization may also have a role in preparing for a follow-up conference in the U.S. in 1992.

#### Application Procedures

To be eligible for consideration organizations must be incorporated in the U.S., have not-for-profit status as

determined by the IRS, and be able to demonstrate expertise in a field relevant to the theme of the project. Experience programming exchange visitors is desirable.

Interested organizations should write or call the Youth Programs Division (address provided above) to request detailed application packets, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific information on the contents of a complete application.

Grant-funded expenditures will generally be limited to the following categories:

- International travel
- Domestic travel
- Maintenance and per diem, not to exceed government limits
- Orientation costs and materials
- Administration—salaries, benefits, other direct and indirect costs

#### Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Eligible proposals will be forwarded to panels of USIA officers for advisory review in conformity with the criteria set forth herein and in the guidelines for preparing proposals prior to funding decisions by delegated officials. All proposals will also be reviewed by the Agency's Office of the General Counsel as well as other Agency offices. The Associate Director for Educational and Cultural Affairs identifies and approves potential grant recipients. Final technical authority for grant awards resides with the Agency Contracting Officer.

Completed applications will be reviewed according to the following criteria:

- a. Quality of the program plan and adherence of the proposed activity to the criteria and conditions described above;
- b. Feasibility of the program plan and institutional capacity of the organization to conduct the program;
- c. Track record—the Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants;
- d. Multiplier effect/impact—the impact of the exchange activity on the wider community and on the development of continuing institutional ties;
- e. Value to the program—the assessment of USIA's geographic area desk of the potential impact and significance of the proposed NATO project;



f. Cost effectiveness—greatest return on each grant dollar and degree of cost-sharing exhibited.

#### Notification

All applicants will be notified of the results of the review process on or about May 1, 1991. Funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: January 29, 1991.

**Warren J. Obluck,**

*Deputy Associate Director, Bureau of Educational and Cultural Affairs.*

[FR Doc. 91-3001 Filed 2-7-91; 8:45 am]

BILLING CODE 9230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the

following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Services and Research Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2282.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer by March 11, 1991.

Dated: February 1, 1991.

By direction of the Secretary.

**Frank E. Lalley,**

*Associate DAS for Information Resources Policies and Oversight.*

#### New Collection

1. Veterans Health Services and Research Administration.

2. Locality Pay System Survey (Department of Veterans Affairs Nurse Pay Act of 1990).

3. Not applicable.

4. The telephone survey will allow VA to collect pay data for registered nurses, nurse anesthetists, and other health care personnel based on beginning rates of compensation for corresponding position in the local labor market. The information will be used to implement a locality pay system within VA.

5. On occasion.

6. State and local governments; businesses or other for-profit; Federal agencies or employees; non-profit institutions; small businesses or organizations.

7. 4,300 responses.

8., 45 minutes.

9. Not applicable.

[FR Doc. 91-2995 Filed 2-7-91; 8:45 am]

BILLING CODE 9320-01-M



# Sunshine Act Meetings

Federal Register

Vol. 56, No. 27

Friday, February 8, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## COMMODITY CREDIT CORPORATION

**TIME AND DATE:** 2:00 p.m., February 13, 1991.

**PLACE:** Room 104-A Administration Building, U.S. Department of Agriculture, Washington, D.C.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:** Agenda to be announced.

### CONTACT PERSON FOR MORE

**INFORMATION:** James V. Hansen, Secretary, Commodity Credit Corporation, Room 3603 South Building, U.S. Department of Agriculture, Post Office Box 2415, Washington, D.C. 20013; telephone (202) 475-5490.

Dated: February 6, 1991.

James V. Hansen,

Secretary, Commodity Credit Corporation.

[FR Doc. 91-3180 Filed 2-6-91; 12:41 pm]

BILLING CODE 3410-05-M

## FEDERAL COMMUNICATIONS COMMISSION

Dated: February 6, 1991.

**FCC To Hold Open Commission Meeting, Wednesday, February 13, 1991**

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, February 13, 1991, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

*Item No., Bureau, and Subject*

- 1—Common Carrier—*Title:* Petition for Rule Making Concerning Proposed Changes to the Commission's Cellular Resale Policies (RM-6539). *Summary:* The Commission will consider whether to adopt a *Notice of Proposed Rule Making* concerning its cellular resale policies.
- 2—Common Carrier—*Title:* Joint Provision of Cellular Customer Premises Equipment and Cellular Service. *Summary:* The Commission will consider whether to adopt a *Notice of Proposed Rule Making* concerning the Commission's cellular "bundling" policies.
- 3—Common Carrier—*Title:* Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation. *Summary:* The Commission will consider whether to adopt a *Notice of Proposed Rule Making* regarding access to operator services and compensation for owners of

competitive public pay telephones for access code calls.

- 4—Private Radio—*Title:* Inquiry into the Need to Preempt State and Local Laws Concerning Amateur Operator Use of Transceivers Capable of Reception Beyond Amateur Service Frequency Allocations. *Summary:* The Commission will consider whether to issue a *Notice of Inquiry* concerning certain state statutes and local ordinances that appear to affect ownership of amateur station transceivers.
- 5—Private Radio—*Title:* Amendment of Part 94 to Permit OFS Distribution of Video Entertainment Material in the 18 GHz Band (PR Docket No. 90-5). *Summary:* The Commission will consider whether to adopt a *Report and Order* permitting Operational Fixed Service (OFS) licensees to use channels in the 18 GHz band to distribute video entertainment material.
- 6—Private Radio—*Title:* Request of Fleet Call, Inc., for Waiver and Other Relief. *Summary:* The Commission will consider the waiver request submitted by Fleet Call, Inc., to establish wide-area, digital Specialized Mobile Radio (SMR) systems in six markets.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: February 6, 1991.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-3234 Filed 2-6-91; 2:55 pm]

BILLING CODE 6712-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:48 p.m. on Tuesday, February 5, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters concerning a certain failed depository institution.

Matters relating to the Corporation's corporation activities.

In calling the meeting, the Board determined, on motion of Director C.C.

Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., Director Robert L. Clarke (Comptroller of the Currency), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: February 6, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91-3238 Filed 2-6-91; 3:15 pm]

BILLING CODE 6714-01-M

## FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 10:00 a.m., February 12, 1991.

**PLACE:** Room 12126, 1100 L Street, NW., Washington, DC. 20573-0001.

**STATUS:** Closed.

### MATTER(S) TO BE CONSIDERED:

1. State Department Report on Peru.

### CONTACT PERSON FOR MORE

**INFORMATION:** Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 91-3127 Filed 2-6-91; 9:06 am]

BILLING CODE 6730-01-M

## BOARD OF GOVERNORS FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 10:00 a.m., Wednesday, February 13, 1991.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.



**MATTERS TO BE CONSIDERED:**

1. Personal actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 6, 1991.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 91-3227 Filed 2-6-91; 2:18 pm]

BILLING CODE 6210-01-M

**INTERSTATE COMMERCE COMMISSION**

Commission Conference

**TIME AND DATE:** 10:00 a.m., Tuesday, February 12, 1991.

**PLACE:** Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

**STATUS:** The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

**MATTER TO BE DISCUSSED:**

There has been a change in the agenda listed in the notice, served February 5, 1991. The following item has been removed from the agenda:

Docket No. AB-308 (Sub-No. 1).  
*Central Michigan Railway Company—Abandonment—East of Ionia to West of Owosso—in Michigan.*

**CONTACT PERSON FOR MORE**

**INFORMATION:** A. Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252 TDD: (202) 275-1721.

Sidney L. Strickland, Jr.,  
*Secretary.*

[FR Doc. 91-3213 Filed 2-6-91; 8:17 pm]

BILLING CODE 7035-01-M

**LEGAL SERVICES CORPORATION**

Audit and Appropriations Committee Meeting; Notice

**TIME AND DATE:** A meeting of the Audit and Appropriations Committee will be held on February 15, 1991. The meeting will commence at 9:00 a.m.

**PLACE:** The Washington Court Hotel, Center Ballroom, 525 New Jersey Ave. NW, Washington, DC 20001-1527, (202) 628-2100.

**STATUS OF MEETINGS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of Agenda.

2. Consideration of Staff's Recommendation for Reprogramming of Fiscal Year (FY) 1990 Uncommitted Carryover Funds, and Recommendation Thereon.

3. Consideration of Staff's Recommendation Concerning FY 1991 Consolidated Operating Budget, and Recommendation Thereon.

4. Consideration of FY 1992 Budget Mark, and Recommendation Thereon.

5. Recommendation for a Board Policy Concerning the Operating Significance of a Board Vote on a Consolidated Operating Budget.

6. Consideration of Management's Space Needs, and Recommendation Thereon.

7. Consideration of Recommendation for an Outside Auditor for FY 1992.

Public comment will be taken prior to action on each agenda item.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: February 6, 1991.

Maureen R. Bozell,

*Corporation Secretary.*

[FR Doc. 91-3240 Filed 2-6-91; 3:44 pm]

BILLING CODE 7050-01-M

**RESOLUTION TRUST CORPORATION**

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:23 p.m. on Tuesday, February 5, 1991, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to: (1) The resolution of a failed thrift institution, (2) recommendations regarding the 1988-89 FSLIC Assistance Agreements, and (3) recommendations regarding the sale of problem commercial loans in conservatorships.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9) (A)(ii), (c)(9)(B), and (c)(10) of the

"Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, N.W., Washington, D.C.

Dated: February 5, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

*Executive Secretary.*

[FR Doc. 91-3201 Filed 2-6-91; 2:16 pm]

BILLING CODE 6714-01-M

**SECURITIES AND EXCHANGE COMMISSION  
Agency Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 11, 1991.

An open meeting will be held on Wednesday, February 13, 1991, at 10 a.m., in Room 1C30. A closed meeting will be held on Thursday, February 14, 1991, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, February 13, 1991, at 10 a.m., will be:

Consideration of whether to adopt amendments to rule 2a-7 under the Investment Company Act of 1940 (the "1940 Act"), the rule that permits money market funds to use the amortized cost method of valuing portfolio securities and the penny-rounding method of computing price per share. The amendments would tighten the conditions of the rule relating to portfolio quality, maturity and diversification, and make it unlawful for any investment company to hold itself out as a money market fund unless it met the risk-limiting conditions of the rule. In addition, the Commission will consider whether to adopt related amendments to rule 482 under the Securities Act of 1933 (the "1933 Act"), rules 2a41-1, 12d3-1 and 34b-1 under the 1940 Act, and Forms N-1A, N-3 and N-4 under the 1933 and 1940 Acts. For further information, please contact Eli A. Nathans at (202) 272-2107.



The subject matter of the closed meeting scheduled for Thursday, February 14, 1991, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted

or postponed, please contact: Jonathan Gottlieb (202) 272-2200.

Dated: February 5, 1991.

Jonathan G. Katz,  
Secretary.

[FR Doc. 91-3192 Filed 2-6-91; 12:41 pm]

BILLING CODE 8010-01-M



[The body of the page contains several columns of extremely faint, illegible text, likely bleed-through from the reverse side of the page. The text is too light to transcribe accurately.]



# **Indian Federal Register**

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**Friday  
February 8, 1991**

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## **Part II**

### **Department of the Interior**

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**Bureau of Indian Affairs**

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**Receipt of Petition for Federal  
Acknowledgment of Existence as an  
Indian Tribe; Notice**



**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Receipt of Petition for Federal  
Acknowledgment of Existence as an  
Indian Tribe**

January 25, 1991.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Etowah Cherokee Nation, c/o Hugh Gibbs, P.O. Box 5454, Cleveland, Tennessee 37320-5454, has filed a petition for acknowledgment by the Secretary of the Interior that the group

exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on December 31, 1990, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the

BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362-MIB, 1849 C Street NW., Washington, DC 20240, phone: (202) 208-3592.

**Stanley M. Speaks,**

*Assistant Secretary-Indian Affairs.*

[FR Doc. 91-3017 Filed 2-7-91; 8:45 am]

BILLING CODE 4310-02-M



# Federal Register

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**Friday  
February 8, 1991**

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## **Part III**

## **Department of Labor**

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### **Employment and Training Administration**

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**Indian and Native American Programs;  
Proposed Reporting Revisions for  
Program Years (FY) 1991 and 1992;  
Notice and Request for Comment**



**DEPARTMENT OF LABOR****Employment and Training Administration****Indian and Native American Programs; Proposed Reporting Revisions for Program Years (PY) 1991 and 1992**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of proposed reporting revisions; request for comment.

**SUMMARY:** The Department of Labor (the Department) is requesting comments on proposed changes to the Job Training Partnership Act (JTPA or the Act) Indian and Native American Annual Status Report (IASR) for the JTPA title IV, section 401 Program, and relevant planning and financial reports. The proposed revisions extend and update the reporting system for section 401 grantees in order to provide data for future performance measures, expanded and revised employability enhancement outcomes and improved adjustments to performance standards. The proposed reporting revisions will more adequately identify harder-to-serve individuals among the INA population, will provide more detailed information on participants' basic education and occupational skill attainments, and will more completely identify the extent and duration of participation in more comprehensive training activities.

**DATES:** Written comments are invited from the public. Comments must be submitted on or before March 11, 1991.

**ADDRESSES:** Comments shall be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, room N-5637, 200 Constitution Ave., NW., Washington, DC 20210; Attention: Gloria Duus, Chief, National Programs Performance Standards Unit. The proposed revisions have been forwarded to the Office of Management and Budget (OMB) for review pursuant to the provisions of the Paperwork Reduction Act. Comments should also be sent to the OMB reviewer at the Office of Information and Regulatory Affairs, Office of Management and Budget, room 3001, Washington, DC 20503; Attention: Steve Semenuk; Telephone: 202/395-6880.

**FOR FURTHER INFORMATION CONTACT:** Gloria Duus, Chief, National Programs Performance Standards Unit. Telephone: (202) 535-0685.

**SUPPLEMENTARY INFORMATION:** The Department is publishing its proposed revisions to the IASR in the *Federal Register* in order to solicit comments on the Department's intended reporting

requirements for Program Years (PY) 1991-1992 (July 1, 1991-June 30, 1993). Upon completion of the OMB review, the Department will notify the JTPA system of any resulting changes or adjustments.

**Justification****A. Authority and Purpose of the JTPA Annual Reporting Requirements**

Collection of information (reporting) is necessary to comply with the JTPA provisions requiring the Secretary to be responsible for section 401 programs' performance standards, recordkeeping and reporting.

**Performance Standards**

- Section 106(d)(3) requires the Secretary to set performance standards for JTPA programs, including Native American programs.
- Section 106(e)(1) permits variations in standards to adjust for local economic factors, the characteristics of the population being served, and the types of services provided. Such factors vary from region to region, with significant effects on individual grantees' delivery of services and performance. Performance standards are adjusted according to each grantee's client characteristics and local economic conditions.
- Section 401(h)(1) further directs the Secretary to develop such rules, regulations and performance standards, taking into account the "special circumstances" under which Native American programs operate.
- Section 401(h)(2) directs Native American grantees to establish performance goals in compliance with performance standards as set by the Secretary pursuant to section 106.

As stated in section 106(a)(2), the basic return on the JTPA investment is to be measured by increased earnings and employment and decreased dependence on public assistance.

**Reports, Recordkeeping and Investigations**

- Section 165 prescribes that federal grantees maintain records and report information regarding program performance and fiscal management as specified by the Secretary.
- Section 401(e) dictates that the Secretary establish administrative procedures for the selection, administration, monitoring and evaluation of Native American employment and training programs.

**Administrative Provisions**

—Section 169(d) (1) and (3) requires the Secretary to submit an annual report to the Congress which includes a summary of achievements, failures, and problems of all programs authorized under the JTPA with recommendations for program modifications based on analysis of such findings or other recommendations as the Secretary deems appropriate.

- Establishing future performance standards for subsequent program years is dependent upon current program year performance data from grantees.
- The proposed revisions update the Indian and Native American reporting system without changing the continued justification for grantee-level reporting on performance and participant characteristics, which are necessary to set objective standards and estimate the effects of varying local conditions on performance in a systematic, consistent, cost-effective way.

**B. Reasons for Revisions**

The proposed revisions to the section 401 reporting system support the expanded policy emphasis on skill development for the harder-to-serve population. Goals for the Indian and Native American program include: (1) Targeting services to a more at-risk population; (2) making quality training investments that lead to long-term employability and increased earnings; (3) emphasizing basic education and occupational skills attainment for adults and youth; and, (4) promoting coordinated service delivery among human service providers. The revisions to reporting were designed to achieve these objectives.

These changes will make section 401 reporting more consistent with title II, provide more complete information on the overall performance of grantees and encourage improved services to Indians and Native Americans—the Department's fundamental objective. The proposed revisions, developed by a technical work group of grantee representatives and DOL staff, were approved by the JTPA Indian and Native American Advisory Committee, which is comprised of members of Native American communities.

The Department is proposing revisions to section 401 reporting for the following reasons:

- In an effort to increase services to those who are less employable, performance standards revisions are being proposed which would create incentives to enrolling applicants who



are less skilled over those who are more job ready. The proposed optional employability enhancement measure, which focuses on skill development, balances the measurement of grantee performance between employment-directed services and employment enhancement activities which should encourage greater assistance to at-risk participants.

Additional data will be collected to identify more completely those participants who are among the hardest-to-serve. Information on those with multiple employment barriers and deficiencies in basic and occupational skills will improve adjustments for performance standards to account for varying levels of service to these groups.

- The dearth of job opportunities within the Native American community and the lack of specific skills among its members has led the Department to expand its INA performance goals from emphasis on job placements to longer-term employability development. Concentrating on intensive training and improved access to other human service resources is essential to preparing INA program participants for jobs in labor market areas served by grantees. New and redefined enhancement outcomes now fully recognize skill training, dropout recovery and prevention, GED preparation and worksite training as valuable services. Performance expectations of grantees differ widely depending on participant deficiencies and type of training provided.

Additionally, reporting pre- and post-program hourly wage data will demonstrate overall gains in wages and, implicitly, the quality of job placements. Such information serves as an alternative indicator of employment stability for INA participants.

- To further the objective to expand basic and occupational skills development, grantees would report classroom training participation in both categories—basic education and occupational skills training. To expand information on participation in skill development activities, new data items are proposed which highlight the average time spent in training as compared to measures of overall program participation. Enhancement outcomes have been expanded and clarified to give grantees explicit options to show participant skill achievements. A new outcome has been proposed that measures basic and occupational skill attainments gained through academic or vocational course completion. This would provide a more direct measure of individual skill attainment by linking basic and occupational skill gains to the employability development planning

process. Data that distinguish between basic education and other types of occupational skills training and between average time spent in various types of training will assist the Department in setting performance expectations adjusted for differing program designs.

- Conforming reporting items to parallel those used in Title II-A programs facilitates coordination with other JTPA providers. Updating elements, such as age, education, employment barriers, and training duration, make the Indian/Native American Annual Status Report (IASR) more consistent with JTPA title II-A reporting. Consistent outcomes across JTPA-funded programs enable the Department to make intra-program comparisons on how well JTPA is serving its target populations. Additionally, effective intraprogram coordination should increase the resource base available to serve the INA population.

- Native Americans eligible for job training under title IV, often need services such as child care, transportation, and health care—which are usually furnished by other programs and are critical to employment and job retention. Requiring grantees to record the section 401 participants receiving income support as well as those concurrently enrolled in other programs would identify the extent to which section 401 programs gain access to other non-JTPA resources. Interprogram coordination helps grantees develop more comprehensive services and ensures that participants have greater access to all available assistance.

#### C. Proposed Changes

The Department is proposing the following additions and modifications to the INA Annual Status Report and other reporting forms:

##### Performance Outcomes

- Also Attained Any Employability Enhancement [New]

A new subset of Entered Unsubsidized Employment is proposed to identify terminees who received both an employability enhancement and a job placement. This line item, "Also Attained Any Employability Enhancement," is necessary to compute the new optional measure—the employability enhancement rate.

- Attained Employability Enhancement Only [Redefined]

This line item replaces the current item, "Additional Positive Terminations." Similar in concept, this renamed category also represents those terminees who attained at least one positive outcome (employability

enhancement) but did not get placed in a job. When combined with those terminees that entered unsubsidized employment and also attained an employability enhancement, grantees can document the total number of participants who have increased their employability through basic education or occupational skill gains regardless of job placement. This line item is necessary to compute the new employability enhancement measure.

- Employability Enhancements

This proposed section is added to identify the full range of employability enhancements that terminees have received.

#### Employability Enhancement Outcomes

- Entered Non-Section 401 Training [Redefined]

The outcome is expanded to include those who entered postsecondary education as well as those entering an occupational employment/training program funded from sources other than the section 401 grantee. Training must also expand upon and not duplicate what the participant has already received in the INA program.

- Returned to Full-Time School [Redefined]

Defined to focus program resources on dropout prevention and recovery, this definition limits reporting to programs retaining at-risk youth in school and returning dropouts to full-time schooling.

- Completion of Worksite Training Objective [Redefined]

Replacing the previously undefined line item "other successful completion of training objective", this subset includes:

- (1) The completion of a work experience, tryout employment, or community service employment assignment; or
  - (2) completion of an apprenticeship or job upgrade program.
- Attained Basic/Occupational Skills Proficiency [New]

A subset of employability enhancement terminations is proposed to document those participants who have demonstrated proficiency in either basic skills or occupational skills and/or earned a certificate of completion from a basic education, pre-apprenticeship or skill training program.

#### Characteristics of Terminees

Age.  
Under 22  
22–29  
30–54  
55 and over

Age breakpoints are reconfigured to be more consistent with title II-A to facilitate more complete program



comparisons. These age distinctions better emphasize the differing levels of difficulty programs face in placing youth and younger adults as compared to prime age and older workers.

#### *Education Status*

- Post High School Attendee (received a high school diploma or GED certificate, and/or attended a post-secondary program) [New]

This proposed new element, which conforms to title II, will distinguish between high school graduates who have not received post-secondary education and those who have. This subset will allow adjustments to standards for those participants who are more job ready as a result of their education.

- Drop out [Redefined]
- Student [Redefined]
- High school graduate, or Equivalent (No post-high school) [Redefined]

These subcategories of educational attainment are updated to be more consistent with title II.

#### *Other Barriers to Employment*

- Reading below 7th grade level [New]

Participants with a low (below 7th grade) reading level are among the hardest-to-serve. This new line item will allow adjustments to grantee standards for those participants who have serious reading deficiencies and thus will need more intensive training. This item also conforms to title II.

- Job Opportunities and Basic Skills (JOBS) participant [New]

JOBS participants represent a segment of the AFDC population in need of and receiving comprehensive employment and training services funded from other (non-section 401) sources. This item will not only identify target populations, but will also show the extent to which local coordination exists between the Departments of Labor and Health and Human Services programs. This proposed item conforms to title II.

- Multiple barriers to employment [New]

Any adult or youth who has three or more of the following barriers to employment:

- School dropout
- Limited English language proficiency
- Handicapped/disabled
- Offender
- Reading below the 7th grade level
- Math skills below the 7th grade level
- Long term AFDC/General Assistance recipient
- Lacks significant work history
- Homeless
- JOBS participant

#### *Substance abuse Pregnant/parenting teen*

Like title II, participants who face multiple barriers to employment are being classified under one element. Thus, grantees serving those with the severest employment barriers in the INA population will receive better adjustments to standards to account for the difficulty programs experience in addressing their needs.

#### *Unemployment Compensation Status*

- Unemployment compensation claimant [New]

Adding unemployment compensation claimant has been proposed to identify those participants who are unemployed but more advantaged by receiving income support. It will also reveal to what extent INA participants benefit from the Unemployment Insurance (UI) program.

#### *Public Assistance Information*

- Public Assistance Recipients [Redefined]
- BIA/Tribal Welfare Recipient [New]

Welfare items are redefined and expanded to better distinguish the various types of public assistance INA participants may be receiving, such as General Assistance funded from the Bureau of Indian Affairs (BIA), SSI and Food Stamps and commodities. A subset is added to identify those INA participants living on reservations who are not currently eligible for AFDC, but receive income support funded from the BIA or Tribal government. This group was not previously included in the participant count of welfare recipients because the current definition is limited to AFDC, Refugee Assistance and non-BIA funded General Assistance.

#### *Veteran Status*

- Veterans [New]
- Vietnam-era Veterans (sub-item of veterans) [New]

The 1986 Amendments to the JTPA require the Department to prescribe "variations in performance standards" to account for service to these groups.

#### *Training Information*

- Average Weeks in All [Specific] Training [New]
- Average Weeks in Section 401 Training [New]

These line items distinguish between average weekly training duration in *all* training activities (regardless of funding source) and average training duration of those enrolled in Section 401 training. These data will highlight the extent to which participants received intensive training (defined to exclude non-skill

building activity and lasting more than 20 hours per week) and whether it was funded by grantees or a combination of service providers. Thus, it is expected that grantee performance may vary depending on the extent to which grantees are able to leverage additional training resources in behalf of their clients. These data will be useful in making adjustments to standards to account for differences in local program design.

- Concurrent Participation in Other Training Programs [New]

This proposed item shows the extent to which participants are enrolled in other employment/training programs and, for this reason, should be receiving more comprehensive services than INA grantees alone can provide. It is another dimension of measuring grantee coordination with other service providers and may provide a useful programmatic adjustment to grantee standards.

#### *Other Program Information*

- Average Weeks Participated [Redefined]

The line item reflecting average program participation has been updated to conform to the definition used in the Title II-A programs. In addition, distinguishing between overall time spent in the section 401 program compared to time spent in actual training helps determine the intensity of training which participants received.

- Average Preprogram Hourly Wage [Redefined]

Pre-program earnings have been changed to reflect average pre-program wages of participants. Reporting pre-program hourly wage, rather than annual earnings, more accurately reflects participants' compensation because seasonal employment distorts annualized earnings. When compared to post-program wages, such information serves as a simple indicator of wage gains and job quality.

#### *Participation in Program Activities*

- Classroom Training: Basic Education [New]
- Classroom Training: Job Skills [New]

Separating classroom training into two categories—basic education and job or occupational skills—helps to identify the extent to which participants are receiving basic skills training and, how these services relate to the participants' basic skill deficits.

- Training Assistance and/or Supportive Services Only [New]

This item identifies the extent to which programs provide supportive



services only to their participants. Refocusing JTPA programs to provide more skill development should result in greater emphasis on providing more than support services *only*.

The Department is proposing the following *deletions*:

- Breakouts of Entered Unsubsidized Employment:
  - Indirect from Classroom Training
  - Indirect from On-the-Job Training
  - Indirect from Tryout Employment
  - Indirect from Work Experience
  - Indirect from Community Service Employment

Indirect placements are now consolidated under one subcategory of entered employment. The two remaining subcategories—direct and indirect—are defined to distinguish between those participants who did and did not receive some training or service before entering employment.

- School Dropout: 8th Grade or Less
- School Dropout: 9th–12th Grade (Not Graduated)

School dropout items were previously divided into two school completion categories, separating those who had some high school education from those who had not. Dropouts will be combined into one line item, similar to Title II-A, encompassing *all* dropouts. JTPA data show that previous cutoffs in grade level had no significant effect on program performance.

- Transiency

Transiency has been deleted as relatively few grantees report transiency among the population served and data indicates transiency makes little or no difference in program performance.

- Tryout Employment (under Total Program Costs section)

Costs associated with Tryout Employment are to be combined with costs for On-the-Job-Training. This category constitutes such a small proportion of program costs, justifying consolidation of the separate entries under one category.

- Tryout Employment (under Participation in Program Activities section)

As a result of its programmatic similarity to OJT and the small number of participants in Tryout Employment, this line item is combined with the number of participants in On-the-Job-Training.

#### *Purpose of Collection*

The method of data collection and reporting will not be changed as a result

of these revisions. Grantees collect the data for submission to the Department. The purpose of collecting such information is to: (1) Enable the Secretary to establish standards at the national level, (2) permit grantee adjustments to standards for client characteristics and local conditions, (3) provide the Department with a basis for measuring performance against such standards, and (4) enable the Secretary to report to Congress.

The significant new dimensions to the reporting system include the reporting of certain basic and occupational skill attainments, definitional clarifications and additions to conform INA program outcomes more closely with title II-A, focusing in-school youth outcomes on dropout prevention and recovery, collecting additional information relating to barriers to employment, and reporting data on participation in training, including training funded from non-section 401 sources. These support and lend to the measurement of the Department's goal of long-term employability development of JTPA participants, the provision of intensive services to the hardest-to-serve, and the encouragement of coordination with other human services/employment training providers.

Failure to collect data on enhancements, skill attainments, barriers to employment, and intensity of services would:

- Raise questions as to whether the Department is conforming to statutory requirements to prepare disadvantaged Native Americans facing serious barriers to employment for entry into the labor force;
- Reduce the Department's ability to address criticism (that the system is mainly training people who can obtain employment without Federal intervention);
- Focus program design on short-term strategies which do not enhance prospects for long-term, stable employment, a consequence which is inconsistent with Departmental policy goals.
- Limit the program's ability to properly relate required skills acquisition of Native Americans to the emerging needs of employers in labor markets.

#### *D. Public Comment*

In the development of these proposed revisions, meetings were held between July and November, to obtain input and feedback from grantees and members of

the Indian and Native American communities. In all, more than 50 participated in the various discussions held on the proposed revisions. This request for comment is another important part of this process.

#### *E. Cost to the System*

The changes included in this request are not expected to substantially increase the reporting burden for grantees, since most of the information is either already available or involves self-reporting by the participants at program entry. However, the collection of participant reading level skills below the 7th grade is one exception. The collection of participant reading skill level may involve procedures which grantees are not currently undertaking. An estimated 25% of the INA participants are already being assessed for reading, either through enrollment in classroom training, in title II-B where assessment for reading and math is required, or coenrolled in other JTPA or Federally-funded programs where assessment is required (e.g., title II-A and III, JOBS). Programs serving students and post high school attendees may use school records. Therefore, many participants are not expected to require assessment or contribute to additional data collection costs. Although costs of assessment may vary, using an average cost of \$3.00 per test for the remaining 75% of the INA participants results in an additional cost of \$60,000, nationally. It is estimated that a one-time cost will be involved in revising reporting formats and management information systems. This cost has been prorated in annual burden hours.

An increased programmatic reporting burden of 5,425 hours has been submitted to OMB, or an average of 34 additional hours per grantee annually.

#### *F. OMB Submission*

The document appended to this notice has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act as a revision to a currently approved information collection system.

\* \* \* \* \*

Signed at Washington, DC, this 31st day of January 1991.

Roberts T. Jones,  
Assistant Secretary of Labor.



**The Job Training Partnership Act of 1982****Indian & Native American Program,  
Section 401****Grantee Planning and Reporting Forms  
and Instructions****Employment and Training  
Administration, U.S. Department of  
Labor**

January 1991.

**Table of Contents**

## Introduction.

Indian & Native American Budget  
Information Summary.Indian & Native American Program Planning  
Summary.Indian & Native American Financial Status  
Report.Indian & Native American Program Status  
Summary.Indian & Native American Annual Status  
Report.**Introduction**

Under the provisions of the Job Training Partnership Act (JTPA) the Secretary must review applications for financial assistance, make reports to the President and the Congress, perform

evaluations and assessments, and provide financial and other assistance to recipient grantees under the Act.

Facsimiles of the forms required to meet these responsibilities and the related procedures are contained in this grantee planning and reporting forms and instructions package. The following information is provided for each form:

- Purpose of form.
- General instructions and description of content of form.
- Facsimile of form.
- Instructions for completing form.

The planning and reporting forms for which instructions are given in this package are mandatory.

The Department of Labor has submitted the planning and reporting requirements detailed in this package to the Office of Management and Budget (OMB) for clearance per the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Any additional requirements on planning or reporting will be submitted to OMB and will be issued officially to the Department through its directives system subsequent to clearance under which OMB granted Paperwork

Reduction Act clearance.

No forms or reports in this package may be changed or altered in any way without prior approval from the National Office of the Employment and Training Administration and OMB clearance, as required by the Paperwork Reduction Act of 1980.

**Indian and Native American (INA),  
JTPA Budget Information Summary  
(IBIS)**

**1. Purpose.** The INA Budget Information Summary (IBIS) displays planned expenditures broken out by program activity within cost category. It is a financial summary of the program's objectives.

**2. General instructions.** The IBIS is required for each JTPA title IV-A, section 401, grantee's program and is a required part of the grant application. Planned expenditures are arrayed cumulatively by program year quarter. The instructions which follow, detail the preparation of the Budget Information Summary for section 401 grants.

**3. Facsimile of form.** The IBIS form is ETA 8600. See the following page.

BILLING CODE 4510-30-M



OMB Approval No.

U.S. DEPARTMENT OF LABOR: Employment and Training Administration

## JTPA BUDGET INFORMATION SUMMARY

TITLE IV A, SECTION 401 - INDIAN/NATIVE AMERICAN PROGRAM

A. GRANTEE NAME AND ADDRESS	B. GRANT NO.	D. TYPE OF PROGRAM (X One) <input type="checkbox"/> IV-A (INAP) <input type="checkbox"/> SYETP <input type="checkbox"/> Other (Specify)
	DATE SUBMITTED (Month, Day, Year)	
	C. PERIOD OF GRANT From: To:	

## I. CUMULATIVE QUARTERLY PROJECTIONS OF EXPENDITURES BY COST CATEGORIES AND PROGRAMS

A. GRANT PROGRAM FUNCTION AND ACTIVITY	B. CUMULATIVE QUARTERS			
	1st	2nd	3rd	4th
1. Training Costs				
a. Classroom Training				
b. On-the-Job Training and Tryout Empl.				
c. Training Assistance				
2. Employment Costs				
a. Work Experience				
b. Community Service Employment				
3. Other Costs				
a. General Other Activities (Non E/T)				
b. All Supportive Services				
4. Administration				
5. Total				
a. Community Benefit Projects ONLY				
II. TOTAL AVAILABLE FUNDS				
A. Carry-In Funds				
B. New Obligational Authority				

COMMENTS:



4. *Instructions for Completing the INA, JTPA, Budget Information Summary (IBIS)*—A. *Grantee name and address.* Enter the name and complete mailing address of the grantee as it appears on the Notice of Obligation (or equivalent).

B. *Grant number.* Enter the grant number as it appears on the appropriate Notice of Obligation (or equivalent). Also, enter date submitted, if a modification.

C. *Period of grant.* Enter the month, day and year of the program year's starting date and ending date.

D. *Type of program.* Check the appropriate box. If Other, specify the type of program.

*Section I. Cumulative Quarterly Projections of Expenditures by Cost Categories and Programs*

Quarterly projections of obligations and expenditure of funds should be listed for the line items below. Planning periods correspond to Federal fiscal year quarters, i.e., and dates of September 30, December 31, March 31, and June 30. 20 CFR 632.38 covers classification of costs by category. All plan entries on the IBIS will be rounded to the nearest dollar.

Enter the projected expenditures by program activities within cost category and total for the grantee's program. These expenditures should be the total planned, from Carry-In as well as New Obligational Authority, and should not include any expenditures incurred during the previous program year. All planned expenditures should be entered, no matter what the fund source is.

All non-administrative expenditures of Federal funds in the grantee's program must be charged to an activity.

Column (A) Grant Program Function and Activity. This column lists cost categories and program activities against which the budget will be displayed by cumulative quarters in Column (B).

Line 1. *Training costs.* Enter by quarter, the expenditures planned to be accrued for classroom or other training, including amounts paid to employers for allowable expenses resulting from on-the-job training. Instruction and related costs consist of goods and services, except supportive services which affect those program participants who are in either a work environment, or classroom setting. Costs of compensation paid to participants for time spent in training activities shall be charged to training.

Include in each of these lines (by quarter) the training expenditures planned to be accrued for that activity (as defined below). The entry for Line 1. for each quarter is the sum of the entries

for Lines 1.a. through 1.c. for that quarter.

Line 1.a. *Classroom training (includes basic education and job skills training).* Enter the training expenditures planned to be accrued for Classroom Training Conducted by the grantee and its agents.

Accrued expenditures for Classroom Training should include:

(a) Cost of any Classroom Training conducted directly by the grantee or included in a classroom training contract or subgrant, excluding training-related Supportive Services to participants.

(b) Cost of compensation paid to participants for time spent in Classroom Training, i.e., generally allowances. (However, wages and fringe benefits may be paid if the participant is enrolled in combined activities under which the prime activity is one for which wages are paid. The compensation should be allocated to the primary activity.) Also, include costs of Training Assistance provided to participants in classroom training.

*Basic education skills*—Training that includes remedial reading, writing, communication, mathematics and/or English for non-English speakers.

*Job skills training*—Training that includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

Line 1.b. *On-the-job training and Tryout Employment.* Enter the training expenditures of authorized Federal funds planned to be accrued for On-the-Job Training (OJT) and Tryout Employment conducted by the grantee and its agents. This figure should include cost of any OJT or Tryout Employment activity conducted directly by the grantee or in an OJT or Tryout Employment contract or subgrant, excluding training-related Supportive Services to participants. Also, include costs of Training Assistance provided to participants in On-the-Job Training and Tryout Employment.

**Note:** (1) For combined activities, when allowances are paid in the primary activity and OJT is the nonprimary activity, allowances will not be paid for OJT.

(2) Reimbursement to private-for-profit employers for OJT costs are limited to amounts allowable in 20 CFR 632.38(e), 632.78(b) and 632.81(d) of the Federal regulations.

Line 1.c. *Training assistance.* Enter the training expenditures planned to be accrued for Training Assistance provided by the grantee and its agents, to participants who are not enrolled in any other activity. Exclude services provided to these participants.

*Training assistance*—includes, but is not limited to:

- (a) Training Assistance to Applicants.
  - (1) Outreach.
  - (2) Intake.
  - (3) Screening for eligibility determination.
- (b) Training Assistance to Participants.
  - (1) Orientation to the world of work.
  - (2) Job-related counseling and testing.
  - (3) Employability assessment (other than that involved during intake).
  - (4) Job development.
  - (5) Job search assistance.
  - (6) Job referral and placement.
  - (7) Vocational Exploration Program (VEP).

Line 2. *Employment costs.* Enter by quarter, the expenditures planned to be accrued for Work Experience and Community Service Employment. Costs consist of goods and services, except Supportive Services, directly attributable to such activities. Costs of compensation paid to participants for time spent in employment activities shall be charged to employment. Entries for Line 2. are the sum of the entries, by quarter, of Lines 2.a. and 2.b.

Line 2.a. *Work experience.* Enter the expenditures planned to be accrued for Work Experience activities conducted by the grantee and its agents, including costs of Work Experience activities conducted by the grantee directly or in a Work Experience contract or subgrant, excluding training-related Supportive Services. Include cost of compensation paid to participants for time spent in Work Experience, i.e., generally wages and fringe benefits. (However, allowances may be paid if the participant is enrolled in combined activities under which the primary activity is one for which allowances are paid. The compensation should be allocated to the primary activity.) Also include costs of Training Assistance provided to participants in Work Experience.

Line 2.b. *Community service employment.* Enter the expenditures planned to be accrued for Community Service Employment activities conducted by the grantee and its agents, including costs of Community Service Employment activities conducted by the grantee directly or in a Community Service Employment contract or subgrant, excluding training-related



**Supportive Services.** Include cost of compensation paid to participants for time spent in Community Service Employment, i.e., generally wages and fringe benefits. (However, allowances may be paid if the participant is enrolled in combined activities under which the primary activity is one for which allowances are paid. The compensation should be allocated to the primary activity.) Also include costs of Training Assistance provided to participants in Community Service Employment.

**Line 3. Other costs.** Enter, by quarter, the expenditures planned to be accrued for General Other Activities (no training or subsidized employment) as specified at (20 CFR 632.80(a)) Line 3.a. and All Supportive Services Line 3.b. Entries for Line 3. are the sum of the entries, by quarter, for Lines 3.a. and 3.b.

Such supportive services may include, but are not limited to:

- (1) Health care.
- (2) Meals and other nutritional assistance.
- (3) Residential support, including temporary shelter.
- (4) Legal, financial and personal counseling.
- (5) Child care.
- (6) Relocation assistance.
- (7) Transportation and commuting assistance.
- (8) Emergency assistance.

**Line 3.a. General other activities (Non-Employment or Training)** Enter, by quarter, the expenditures planned to be accrued for General Other Activities (20 CFR 632.80(a)) provided to participants who are expected to be terminated after receipt of these activities only (no training or subsidized employment) and not enter or receive a referral to unsubsidized employment.

**Line 3.b. All supportive services.** Enter, by quarter, the expenditures planned to be accrued for All Supportive Services (20 CFR 632.80(b)) provided to participants. Include planned accrued expenditures for both training-related Supportive Services and Supportive Services provided to participants who are expected to be terminated after receipt of Supportive Services only (no training or subsidized employment) and not enter or receive a referral to unsubsidized employment.

**Line 4. Administration.** Enter, by quarter, the expenditures planned to be accrued for administrative costs as identified in the regulations (20 CFR 632.38(d)). Administrative costs consist of all direct and pro rated costs associated with the management of the program. This includes subgrantee, and contractor direct and pro rated administrative costs.

**Line 5. Total.** Enter, by quarter, the sum of Lines 1 through 4.

**Line 5.a. Community benefit projects only.** Enter, by quarter, the expenditures planned to be accrued for Community Benefit Projects ONLY. This entry is a sub-breakout of the entry of Line 5. Total.

#### **Section II. Total Available Funds**

Enter the amount of total federal funds available. The entry for Section II. is the sum of the entries for Section II.A. and II.B.

#### **Section II.A. Carry-In Funds**

Enter the amount of funds granted by the Employment and Training Administration during the preceding program year which (a) Have not been charged as an accrued expenditure, and (b) have not been returned to the

Federal government. This figure should change only for accounting adjustments, if any, to the preceding program year data. The funds contained in this item will consist of unobligated amounts, i.e., (1) Funds the grantee has not yet legally committed and (2) unliquidated obligations, and are assumed to be available for accrued expenditures during the program year covered by this financial planning document.

[(Note: An unliquidated obligation is an order or other legal commitment of funds for goods/service not yet received.)]

#### **Section II.B. New Obligational Authority**

Enter the amount of funds granted by the Employment and Training Administration for operation of the grantee's program under this JPTA title for the program year.

#### **Indian and Native American INA, JTPA Program Planning Summary (IPPS)**

**1. Purpose.** The INA Program Planning Summary (IPPS) displays program goals for a grantee's program. On this required form, planned participation is shown both for the total grant and for individual program activities.

**2. General instructions.** The IPPS will be submitted for each JTPA Title IV-A, Section 401, grantee's program and is required part of the grant application. The specific instructions below explain the items on the IPPS. Development of the information needed to complete these items is one product of the grantee's planning system.

**3. Facsimile of form.** The IPPS form is ETA 8601. See the following page.

BILLING CODE 4510-30-M



OMB Approval No

U.S. DEPARTMENT OF LABOR - Employment and Training Administration

## JTPA PROGRAM PLANNING SUMMARY

TITLE IV A, SECTION 401 - INDIAN/NATIVE AMERICAN PROGRAM

A. GRANTEE NAME AND ADDRESS	B. GRANT NO.	C. PERIOD OF GRANT
	DATE SUBMITTED (Month, Day, Year)	From:
	To:	
D. TYPE OF PROGRAM (X One)		
<input type="checkbox"/> IV-A (INAP) <input type="checkbox"/> SYETP <input type="checkbox"/> OTHER (SPECIFY)		

I. PARTICIPATION AND TERMINATION SUMMARY	CUMULATIVE QUARTERS							
	FIRST		SECOND		THIRD		FOURTH	
	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other
	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
A. TOTAL PARTICIPANTS								
1. New Participants								
2. Participants Carried Over								
B. TOTAL TERMINATIONS								
1. Entered Unsubsidized Employment								
a. Direct (No Training or Sub. Employ.)								
b. Indirect (After Training/Sub. Employ.)								
(1) Also Attained Any Employ. Enhanc.								
2. Attained Employability Enhanc. ONLY								
3. All Other Terminations								
C. TOTAL CURRENT PARTICIPANTS (End of Quarter)								

II. PARTICIPATION IN PROGRAM ACTIVITIES	TOTAL							
	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other	Comm. Bene- fit Project	All Other
	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
A. Classroom Training: Basic Educ.								
B. Classroom Training: Job Skills								
C. On-the-Job Training and Tryout Employ.								
D. Work Experience								
E. Community Service Employment								
F. Training Asst. and/or Supportive Services								

III. SIGNIFICANT CHARACTERISTICS OF TERMINEES (PROGRAM YEAR PLAN)			
A. Female		E. Limited English Language Proficiency	
B. Under 22		F. Handicapped	
C. School Dropout		G. Offender	
D. Single Hd of Hshld w/Dep Chld		H. Reading Skills Below 7th Grade Level	
		I. JOBS Program Participant	
		J. Multiple Barriers to Employment	
		K. Not in Labor Force	
		L. Public Assistance Recipient	

IV. COMMUNITY BENEFIT PROJECT(S) GOALS	
GOAL A:	
GOAL B:	
GOAL C:	
GOAL D:	

ETA 8601 (Apr. 1991)



4. *Instructions for Completing the INA, JTPA Program Planning Summary (IPPS)*—A. *Grantee name and address.* Enter the name and mailing address of the grantee as it appears on the Notice of Obligation (or equivalent).

B. *Grant number.* Enter the grant number as it appears on the appropriate Notice of Obligation (or equivalent). Also, enter date submitted, if a modification.

C. *Period of grant.* Enter the month, day and year of the program year's starting date and ending date.

D. *Type of program.* Check the appropriate box. If other, specify the type of program.

#### *Section I. Participation and Termination Summary*

Section I describes the planned flow of participants through the program: The number entering, those leaving (including the reasons for their departures), and those remaining in the program. The plan is cumulative by program year quarter unless otherwise specified and includes carry over participants. Enter separately, in the spaces provided, the expected number of participants in: (a) Community Benefit Projects and (b) All Other Participants.

Column headings will reflect the quarters of the Federal fiscal year (i.e., September 30, December 31, and June 30). There should be no mix of program years on any IPPS. In those few instances where a grantee's program covers more than one year, an additional IPPS should be completed showing the other year's activity on the appropriate lines.

Entries under Items I.A. and I.B. are to be cumulative and entries for I.C. contain the planned participation as of the close of business on the last day of each quarter.

#### *Line I.A. Total Participants*

Enter by quarter, the total number of participants planned for the program. Entries should be cumulative for the program year to date. This item is the sum of Items I.A.1.—New Participants, and Item I.A.2.—Participants Carried Over.

*Participant*—Any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving employment, training, or services (except post-termination services) funded under the Act following intake. This does not include individuals who receive only outreach and/or intake and initial assessment services.

*Line I.A.1. New participants.* Enter by quarter, the number of new participants expected to enter the program after the beginning of the program year. Also

include in this item, those persons expected to enter this title or program from another program operated under the Act by a different recipient (e.g., persons from a program operated under a Governor's grant to a grantee's program.) A participant in another program or title under JTPA who met the eligibility criteria for section 401 at the time of enrollment into such other program or title may be enrolled in the Section 401 program. A section 401 participant who met the eligibility criteria for another program or title under JTPA at the time of enrollment into section 401 program may be enrolled in such other program or title.

*Line I.A.2. Participants carried over.* Enter by quarter, the number of participants planned to be in the grantee's program on the last day of the previous program year whose participation will continue in this program year.

This entry should be updated to reflect the actual number of participants carried over when that information becomes available. It will then be the same for all subsequent quarters of the year.

#### *Line I.B. Total Terminations*

Enter by quarter, the number of participants expected to terminate from the program for any reason during the program year. Entries by quarter should be cumulative of the program year to date. This entry is the sum of Items I.B.1 through I.B.3. (Participants who move among program activities within a title are not terminations and should not be counted here.)

*Termination*—The separation of a participant from a given title of the Act who is no longer receiving employment, training of services (except post-termination services) funded under the title. NOTE: Individuals may continue to be considered as participants for a single period of up to 90 days after last receipt of employment and/or training (30 days after last receipt of services only) funded under a given title. During the 90-day period, individuals may receive services. Post-termination services may be provided to individuals for a period of time not to exceed 30 days following termination (20 CFR 632.80(a)(5)).

*Line I.B.1. Entered unsubsidized employment.* Enter by quarter, the cumulative number of participants who are expected to enter (through the grantee or otherwise) full or part-time unsubsidized employment through the end of the reporting period.

*Unsubsidized Employment*—Employment not financed from funds provided under the Act that includes a

job, entry into registered apprenticeship and/or military service, or self employment.

Distribute by quarter, the cumulative number of participants who are expected to enter unsubsidized employment in one of the groups listed below.

*Line I.B.1.a. Direct (no training or subsidized employment).*

*Line I.B.1.b. Indirect (after training/ subsidized employment).*

*Direct*—A participant who will receive no basic skills or occupational skills training or subsidized employment while enrolled as a section 401 participant.

*Subsidized employment*—Employment financed from funds provided under the Act.

*Indirect*—A trainee who will receive basic skills and/or occupational skills training or subsidized employment while a section 401 participant.

*Line I.B.1.b.(1) Also attained any employability enhancement.* Employability enhancement is an outcome for participants other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Entered Non-Section 401 Training, (2) Returned to Full-Time School, (3) Completed Major Level of Education, (4) Completion of Worksite Training Objective, and (5) Attained Basic/ Occupational Skills Proficiency.

Enter by quarter, the total number of participants who are expected to have one of the above enhancements and who are also expected to enter (through the grantee or otherwise) full or part-time unsubsidized employment through the end of the reporting period.

**Note:** A participant shall be reported in only one of the five categories listed above, even though more than one outcome may have been achieved.

*Line I.B.2. Attained employability enhancement only.* Enter by quarter, the cumulative number of participants who are expected to attain one of the enhancements outcomes under Item I.B.1.b.(1) and are not expected to be placed in subsidized employment. A participant shall be reported in only one of the enhancement outcomes even though more than one enhancement may be achieved (Note: This is a non-duplicated count).

*Line I.B.3. All other terminations.* Enter by quarter, the total number of participants who are expected to be



terminated for reasons other than those in Items I.B.1.a, I.B.1.b.(1), and I.B.2. The sum of Items I.B.1.a., I.B.1.b.(1), and I.B.2. in each column should equal Item I.B.

#### Line I.C. Total Current Participants

Enter by quarter, the total number of participants who are expected to be in the programs as of close of business on the last day of the reporting and who are expected to continue to receive services into the next reporting period. This Item, in each column, is the difference between Items I.A. and I.B. in that column.

### Section II. Participation in Program Activities

This section summarizes JTPA program plans (goals) for providing training and subsidized employment to participants. The plan is presented in terms of a cumulative count of all participants in each program activity. Only those participants to be financed with section 401 funds should be entered here. Enter separately, the expected number of participants in: (a) Community Benefit Projects and (b) All Other Participants.

Enter by quarter, the cumulative number of participants expected to enter the activities during the program year. This will include participants carried over from the previous program year as well as those who enter the activity after the start of the current program year. Participants who are expected to be in more than one activity should be counted only once for each activity in which they are expected to participate. Participants who are expected to receive services only should be counted only in Section I—Participation and Termination Summary, as appropriate.

Line II.A. Classroom training: (basic education)

Line II.B. Classroom training: (job skills)

**Note:** (includes occupational and remedial training)

Enter by quarter, the cumulative number of participants expected to be in occupational classroom training activities operated by the grantee, its contractor or subgrantee. Occupational/Job Skills classroom training includes training ordinarily conducted in an institutional setting and designed to provide individuals with the technical skills and information required to

perform a specific job or group of jobs. Participants in other classroom activities which are designed to enhance the employability of the participant by upgrading basic skills (e.g., remedial education or training in English language proficiency) also would be included here.

#### Line II.C. On-the-Job Training and Tryout Employment

Enter by quarter, the cumulative number of participants expected to be in On-the-Job Training and Tryout Employment as referred to at (20 CFR 632.78(c)).

#### Line II.D. Work Experience

Enter by quarter, the cumulative number of participants expected to be in Work Experience activities. In-School Work Experience activities include part-time employment for students enrolled full-time in, and attending, an elementary, secondary, trade, technical or vocational school, or college or a university, or scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools. Also, include here the number of participants expected to be enrolled in Work Experience activities other than in-school work experience activities.

#### Line II.E. Community Service Employment

Enter by quarter, the cumulative number of participants expected to be in the Community Service Employment activities referred to at (20 CFR 632.79(a)).

#### Line II.F. Training Assistance and/or Supportive Services

Enter by quarter, the cumulative number of participants expected to be in Training Assistance and/or Supportive Services activities.

*Training assistance*—Includes, but is not limited to:

- (a) Training Assistance to Applicants.
  - (1) Outreach.
  - (2) Intake.
  - (3) Screening for eligibility determination.
- (b) Training Assistance to Participants.
  - (1) Orientation to the world of work.
  - (2) Job-related counseling and testing.
  - (3) Employability assessment (other than that involved during intake).
  - (4) Job development.

- (5) Job search assistance.
- (6) Job referral and placement.
- (7) Vocational Exploration Program (VEP).

### Section III. Significant Characteristics of Terminees

For Lines III.A. through L., enter the number of participants expected to be terminated from the grantee's program. Entries will be for the program year and will include participants carried over from the previous program year. Enter each participant in as many of these items as are appropriate, if any.

### Section IV. Community Benefit Project Goals

Enter the goals specified in the Community Benefit Project Description Sheet.

### Indian and Native American (INA), JTPA Financial Status Report (IFSR)

1. *Purpose.* The JTPA Financial Status Report (IFSR) displays cumulative information on the amount of JTPA funds expended, by program activity, by the grantee.

2. *General instructions.* The IFSR is required for each JTPA title IV-A, section 401 grant. Reporting periods correspond to Federal fiscal year quarters, i.e., end dates of September 30, December 31 and March 31. (Cumulative information through the end of the fourth quarter will be entered on the IASR and no IFSR will be submitted for that report period.)

Three copies of the IFSR are to be provided to: U.S. Department of Labor, Employment and Training Administration, ATTN: TSVR—room S-5306, 200 Constitution Avenue NW., Washington, DC 20210.

Reports due at DOL are to be postmarked no later than 45 days after the end of each report period (20 CFR 632.41).

The IFSR will be compiled on an accrual basis (41 CFR 29-70.207-2(a)). If the grantee's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates. All entries on the quarterly IFSR will be made to the nearest whole dollar.

3. *Facsimile of form.* The IFSR form is ETA 8602. See the following page.

BILLING CODE 4510-30-M



OMB Approval No.

U.S. DEPARTMENT OF LABOR - Employment and Training Administration

**JTPA FINANCIAL STATUS REPORT**

TITLE IV A, SECTION 401 - INDIAN/NATIVE AMERICAN PROGRAM

1. GRANTEE NAME AND ADDRESS	2. FED. AGCY.	3. GRANT NUMBER	4. REPORT PERIOD From:
	5. TYPE OF PROGRAM ("X" One) <input type="checkbox"/> IV-A (INAP) <input type="checkbox"/> Other (Specify) <input type="checkbox"/> SVETP		To:

6. STATUS OF FUNDS	TOT. FED. SHARE OF PROGRAM OUTLAYS	TRAINING	EMPLOYMENT	OTHER
	A	B	C	D
1. Classroom Training				
2. On-the-Job Training and Tryout Empl.				
3. Training Assistance				
4. Work Experience				
5. Community Service Employment				
6. General Other Activities (Non E/T)				
7. All Supportive Services				
8. Administration				
9. Total				
■ Community Benefit Projects ONLY				
II. TOTAL AVAILABLE FUNDS				
a. Carry-In Funds				
b. New Obligational Authority				

## COMMENTS:

7. CERTIFICATION ---> I CERTIFY that to the best of my knowledge and belief that this report is CORRECT and COMPLETE and all outlays are for the purposes set forth in the GRANT AGREEMENT

TYPED (NAME AND TITLE)	PHONE NO.	SIGNATURE	DATE SUBMITTED (Month, Day, Year)
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4. *Instructions for Completing the INA, JTPA Financial Status Report (IFSR)*—Item 1. *Grantee name and address*. Enter the name and address of the grantee as it appears on the Notice of Obligation (or equivalent).

Item 2. *Federal agency*. Enter ETA.

Item 3. *Grant number*. Enter the grant number as it appears on the Notice of Obligation (or equivalent).

Item 4. *Report period*. Enter the month, day, and year of the beginning and ending of the period for which this report is prepared. Since the report will be prepared on a cumulative basis, the beginning data will be the first day of the program year.

Item 5. *Type of program*. Check the appropriate box. If Other specify the type of program.

Item 6. *Status of funds*. Enter the accrued program expenditures from the beginning of the program year to date. Accrued expenditures are the actual disbursements (payments other than advances) plus invoices on hand and other projected payments for goods or services received (for which invoices have not been received); and salaries and related benefits (earned but not paid) for the days between the beginning of the program year and the end of the reporting year.

All non-administrative expenditures of Federal funds in the JTPA grant must be charged to an activity, i.e., Lines 1 through 7.

Column (A), Total Federal Share of Program Outlays, Lines 1 through 7. Leave blank.

Line 8. *Administration*. Enter in Column (A), the accrued expenditures for administrative costs as identified in the regulations (20 CFR 632.8(d)). Administrative costs consist of all direct and prorated costs associated with the management of the program. This includes subgrantee and contractor direct and prorated administrative costs.

Line 9. *Total*. Enter in Column (A), the sum of Lines 1 through 3 Column (B), plus Lines 4 and 5 Column (C), plus Lines 6 and 7 Column (D), plus Line 8 Column (A).

Line 9.a. *Community benefit projects only*. Enter in Column (A), the accrued expenditures for the program to date for Community Benefit Projects Only. (This entry is a subbreakout of Line 9, Column (A)—Total.

Column (B) Training. Include those costs (except supportive services) which directly affect program participants in a training activity, i.e., Classroom Training: Basic Education and Job Skills, On-the-Job Training and Tryout Employment.

Costs of Training Assistance should be included in the entry for Training—

Column (B) or Employment—Column (C), as appropriate, for the primary program activity of participation. (If Training Assistance is the only program activity of participation, enter these costs on Line 3 under Training—Column (B).

Line 1. *Classroom Training (includes Basic Education and Job Skills Training)*. Enter in Column (B), the accrued expenditures for the program to date for Classroom Training programs (20 CFR 632.78 (a)) conducted by the grantee and its agents. Accrued expenditures for Classroom Training should include:

(a) Cost of any Classroom Training conducted directly by the grantee or included in a Classroom Training contract or subgrant, but excluding Supportive Services provided to participants in that activity.

(b) Cost of compensation paid to participants for time spent in occupational and remedial Classroom Training (i.e., generally allowances). However, wages and fringe benefits may be paid as specified in 20 CFR 632.81(d).

*Basic education skills*—Training that includes remedial reading, writing, communication, mathematics and/or English for non-English speakers.

*Job skills training*—Training that includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

Line 2. *On-the-job training and tryout employment*. Enter in Column (B), the accrued expenditures for the program to date for On-the-Job Training programs and Tryout Employment (20 CFR 632.78 (b) and (c)) conducted by the grantee and its agents. This entry should include cost of any OJT or Tryout Employment activity conducted directly by the grantee or in an OJT or Tryout employment contract or subgrant, but excluding Supportive Services provided to participants in these activities. Also include cost of compensation paid to participants for time spent in Tryout Employment.

Line 3. *Training Assistance*. Enter in Column (B), the accrued expenditures for the program to date for Training Assistance (20 CFR 632.78(d)) provided by the grantee or its agents to participants who are not enrolled in any other activity.

*Training assistance*—Includes, but is not limited to:

(a) Training Assistance to Applicants.

(1) Outreach.

(2) Intake.

(3) Screening for eligibility determination.

(b) Training Assistance to Participants.

(1) Orientation to the world of work.

(2) Job-related counseling and testing.

(3) Employability assessment (other than that involved during intake).

(4) Job development.

(5) Job search assistance.

(6) Job referral and placement.

(7) Vocational Exploration Program (VEP).

**Note:** Exclude accrued expenditures for Supportive Services, if any, provided to individuals who participated in the Training Assistance provided to participants in these employment activities, as appropriate.

Column (C) Employment. Include those costs (except Supportive Services) associated with Work Experience and Community Service Employment. Include any costs of Training Assistance provided to participants in these employment activities, as appropriate.

Line 4. *Work experience*. Enter in Column (C), the accrued expenditures for the program to date for Work Experience programs (20 CFR 632.79(b)) conducted by the grantee or its agent. The entry should include:

(a) Cost of any Work Experience activity conducted directly by the grantee or included in a Work Experience contract or subgrant, but excluding Supportive Services provided to participants in that activity.

(b) Cost of compensation paid to participants for time spent in Work experience (i.e., generally wages and fringe benefits).

Line 5. *Community service employment*. Enter in Column (C), the accrued expenditures for the program to date for the Community Service Employment programs (20 CFR 632.79(a)) conducted by the grantee or its agent. The entry should include:

(a) Cost of any Community Service Employment activity conducted directly by the grantee or included in a Community Service Employment contract or subgrant, but excluding Supportive Services provided to participants in that activity.

(b) Cost of compensation paid to participants for time spent in Community Service Employment (i.e., generally wages and fringe benefits).

Column (D) Other. Include those costs for All Supportive Services, services which are necessary to enable an



individual to participate in training and assistance under section 401 of the Act, and those activities and services described in 20 CFR 632.80.

**Line 6. General other activities (non-employment or training).** Enter in Column (D), the accrued expenditures for the program to date for General Other Activities (20 CFR 632.80(a)) provided to participants who were terminated after receipt of those activities only (no training or subsidized employment) and did not enter or receive a referral to unsubsidized employment.

**Line 7. All supportive services.** Enter in Column (D), the accrued expenditures for the program to date for All Supportive Services (20 CFR 632.80(a)) provided to participants. Include accrued expenditures for both training-related Supportive Services and Supportive Services provided to participants who were terminated after receipt of Supportive Services ONLY (no training or subsidized employment) and did not enter or receive a referral to unsubsidized employment.

#### Section II. Total Available Funds

Enter the amount of total federal funds available. The entry for Section II. is the sum of the entries for Section II.a. and II.b.

**Line II.a. Carry-in funds.** Enter the amount of funds granted by the

Employment and Training Administration during the preceding program year which (a) Have not been charged as an accrued expenditure, and (b) have not been returned to the Federal government. This figure should change only for accounting adjustments, if any, to the preceding program year data. The funds contained in this item will consist of unobligated amounts, i.e., (1) Funds the grantee has not yet legally committed and (2) unliquidated obligations, and are assumed to be available for accrued expenditures during the program year covered by this financial planning document.

**Note:** An unliquidated obligation is an order or other legal commitment of funds for goods/service not yet received.

#### Section II.b. New Obligational Authority

Enter the amount of funds granted by the Employment and Training Administration for operation of the grantee's program under this JPTA title.

**Item 7. Certification.** Enter the typed name, title, telephone number, signature of an authorized official and the date submitted.

**Note:** The annual accounting settlement process requires special consideration when there is a change in the costs (accrued expenditures) after the IASR has been submitted by the grantee. A revised IFSR will be required for expenditures that have been increased or decreased and a corresponding adjustment will be entered on the SF 183.

Request for Payment on the RDO Letter of Credit form or the TFS 5805, Request for Funds, as appropriate.

#### Indian and Native American (INA), JTPA Program Status Summary (IPSS)

**1. Purpose.** The INA Program Status Summary (IPSS) collects cumulative participation and termination information, for each of the first 3 quarters of the program year and provides quantitative program accomplishments of the grantee's program.

**2. General instructions.** The IPSS will be required for each JTPA title IV-A, section 401, grant. Reporting periods correspond to Federal fiscal year quarter, i.e., end dates of September 30, December 31 and March 31. (Cumulative information through the end of the fourth quarter will be entered on the IASR and no IPSS will be submitted for that report period).

Three copies of the IPSS are to be provided to: U.S. Department of Labor, Employment and Training Administration, Attention: TSVR, room S-5306, 200 Constitution Avenue, NW., Washington, DC 20210. Reports due to DOL are to be postmarked no later than 45 days after the end of each report period.

**3. Facsimile of form.** The IPSS form is ETA 8603. See the following page.

BILLING CODE 4510-30-M



OMB Approval No.

U.S. DEPARTMENT OF LABOR: Employment and Training Administration  
**JTPA PROGRAM STATUS SUMMARY**  
 TITLE IV A, SECTION 401 - INDIAN/NATIVE AMERICAN PROGRAM

a. GRANTEE NAME AND ADDRESS	b. GRANT NO.	c. REPORT PERIOD From:
	d. TYPE OF PROGRAM ("X" One) <input type="checkbox"/> IV-A (INAP) SYETP <input type="checkbox"/> Other (Specify)	To:

I. PARTICIPATION AND TERMINATION SUMMARY	COMM. BENE. PROJECTS	ALL OTHER
	(a)	(b)
A. TOTAL PARTICIPANTS		
1. New Participants		
2. Participants Carried Over		
B. TOTAL TERMINATIONS		
1. Entered Unsubsidized Employment		
a. Direct (No Training or Subsidized Employment)		
b. Indirect (After Training/Subsidized Employment)		
(1) Also Attained Any Employability Enhancement		
2. Attained Employability Enhancement ONLY		
3. All Other Terminations		
C. TOTAL CURRENT PARTICIPANTS		
D. EMPLOYABILITY ENHANCEMENTS		
1. Entered Non-Section 401 Training		
2. Returned to Full-Time School		
3. Completed Major Level of Education		
4. Completion of Worksite Training Objective		
5. Attained Basic/Occupational Skills Proficiency		

II. PARTICIPATION IN PROGRAM ACTIVITIES		
A. Classroom Training: Basic Education		
B. Classroom Training: Job Skills		
C. On-the-Job Training/Tryout Employment		
D. Work Experience		
E. Community Service Employment		
F. Training Assistance and/or Supportive Services Only		

III. COMMUNITY BENEFIT PROJECT(S) STATUS		
GOAL A:		
GOAL B:		
GOAL C:		
GOAL D:		

IV. CERTIFICATION		
NAME AND TITLE OF AUTHORIZED OFFICIAL	SIGNATURE	DATE (Mo., Day, Yr.)



4. *Instructions for completing the INA, JTPA program planning summary (IPSS)*—A. *Grantee name and address.* Enter the name and address of the grantee as it appears on the Notice of Obligation (or equivalent).

B. *Grant number.* Enter the grant number as it appears on the appropriate Notice of Obligation (or equivalent). Also, enter date submitted, if a modification.

C. *Period of grant.* Enter the month, day and year of the program year's starting date and ending date.

D. *Type of program.* Check the appropriate box. If other, specify the type of program.

#### *Section I. Participation and Termination Summary*

Section I provides information on actual program accomplishments in terms of the total cumulative number of participants in the program, the number and types of terminations from the program, and the number of participants currently in the program as of the end of the reporting period. Enter separately, in the spaces provided the cumulative number of participants in: (a) Community Benefit Projects and (b) All Other Participants.

Entries under Lines I.A. and I.B. are cumulative for the reporting period. Entries under Line I.C. report the current participation as of the close of business on the last day of each quarter.

#### *Line I.A. Total Participants*

Enter the total number of participants who are or were in the program during the reporting period, including both those on board at the beginning of the program year and those who have entered during the program year. This item is the sum of Lines I.A.1. and I.A.2.

*Participant*—Any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving employment, training, or services (except post-termination services) funded under the Act following intake. This does not include individuals who receive only outreach and/or intake and initial assessment services.

*Outreach services*—The collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA Section 401 training and support services.

*Intake Services*—The screening for eligibility, and, (1) A determination of whether the program can benefit the individual; (2) an identification of the employment and training activities and services which would be appropriate for that individual; (3) a determination of

the availability of an appropriate employment and training activity; (4) a decision on selection for participation; and (5) the dissemination of information on the program.

*Assessment Services*—A service designed to initially determine each participant's employability, aptitudes, abilities and interests, through interviews, testing and counseling to achieve the applicant's employment related goals.

*Line I.A.1. New participants.* Enter the number of new participants who have entered since the beginning of the program year.

Also include in this Line those persons who have entered this title or program from another program operated under the Act by a different recipient, e.g., persons from a program operated under a Governor's grant to a grantee program. A participant in another program or title under JTPA who met the eligibility criteria for section 401 at the time of enrollment into such other program or title may be enrolled in the section 401 program. A section 401 participant who met the eligibility criteria for another program or title under JTPA at the time of enrollment into the section 401 program may be enrolled in such other program or title.

*Line I.A.2. Participants carried over.* Enter the number of participants in the program at the beginning of the program year who were carried over from the previous program year. This entry should be the same for all subsequent quarters of the program year when the estimated figures on the IPPS are updated with actual figures.

#### *Line I.B. Total Terminations*

Enter the number of participants terminated from the program for any reason during the reporting period. This Line is the sum of Lines I.B.1 through I.B.3. (Participants who moved among program activities within a title are not terminated and should not be counted here.)

*Termination*—The separation of a participant from a given title of the Act who is no longer receiving employment, training or services (except post-termination services) funded under the title.

*Note:* Individuals may continue to be considered as participants for a single period of up to 90 days after last receipt of employment or training funded under a given title. (Supportive services may be provided to participants during this 90-day period.) Supportive services may be provided to individuals after termination for a period of time not to exceed 30 days following termination (20 CFR 632.80(a)(5)).

*Line I.B.1. Entered unsubsidized employment.* Enter the total number of participants who entered (through the grantee or otherwise) full or part-time unsubsidized employment during the reporting period and did not receive one of the following enhancement outcomes: Entered Non-section 401 Training; Returned to Full-Time School Completed Major Level of Education; Completion of Worksite Training Objectives; and Attained Basic/Occupational Skills Proficiency.

*Unsubsidized employment*—Employment not financed from funds provided under the Act that includes a job upgrade, entry into apprenticeship and/or military service, or self employment.

Distribute the participants who entered unsubsidized employment in one of the groups listed below during the reporting period. Lines I.B.1.a. and I.B.1.b. should sum to Line I.B.1.

*Line I.B.1.a. Direct (no training or subsidized employment)*

*Line I.B.1.b. Indirect (after training/ subsidized employment)*

*Direct*—A trainee who received no basic skills or occupational specific training or subsidized employment while a section 401 participant.

*Subsidized employment*—Employment financed from funds provided under the Act.

*Indirect*—A trainee who has received basic skills and/or occupational skills training or subsidized employment while a section 401 participant.

*Line I.B.1.b. (1) Also Attained any employability enhancement.* Enter the total number of Participants who (1) entered unsubsidized employment, Line I.B.1., and (2) also had one of the five employability enhancement outcomes under Line I.D., Lines I.D.1 through I.D.5. through the end of the reporting period. *This Line is a sub-breakout of Line I.B.1.b.*

*Line I.B.2. Attained employability enhancement only.* Enter the total number of trainees who (1) Were not placed in unsubsidized employment and (2) attained one of the following enhancement outcomes during the reporting period: Entered Non-Section 401 Training; Returned to Full-Time School; Completed Major Level of Education; Completion of Worksite Training Objective; and Attained Basic/Occupational Proficiency through the end of the reporting period.

(A trainee shall be reported only once on this line even though more than one enhancement may have been achieved.)



(Note: This is a unduplicated count).

**Line I.B.3. All other terminations.** Enter the total number of participants who were terminated for reasons other than those in Lines I.B.1. and I.B.2. during the reporting period. The sum of Lines I.B.1., I.B.2. and I.B.3. in each column should equal Line I.B.

**Line I.C. Total Current Participants**

Enter the total number of participants in the program as of close of business on the last day of the quarterly reporting period who continue to receive services into the next reporting period. This Line, in each column, is the difference between Lines I.A. and I.B. in that column.

Distribute by column the total number of trainees who attained any of the following enhancement outcomes. A trainee shall be reported in only one of the five categories listed below, even though more than one outcome may have been achieved. The sum of Lines I.D.1 through I.D.5. should equal the sum of Lines I.B.1 b.(1) and I.B.2.

**Line I.D.1. Entered non-section 401 training.** Enter by quarter, the total number of participants who, at termination, entered an occupational skills training program or postsecondary education program not funded under Section 401 of the JTPA, which builds upon and does not duplicate training received under section 401.

**Occupational skills training.—** Training that includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

**Line I.D.2. Returned to full-time school.** Enter by quarter, the total number of participants who, at termination, had returned to full-time secondary school (e.g., junior high school, middle school and high school), including alternative school, if, at the time of intake the individual was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent. Also enter on this line the total number of at-risk youth who were retained in school as a result of continuing active participation in the section 401 program.

**At-risk youth—**Youth whom the grantee regards as within a group that may drop out of school prior to receipt of a high school diploma. Such an

outcome must be consistent with the goals and service strategy set for the participant in his or her Employability Development Plan (EDP).

**Alternative school—**A specialized, structured curriculum offered inside or outside of the public school system which may provide work/study and/or GED preparation.

**Line I.D.3. Completed major level of education.** Enter by quarter, the total number of participants who, at termination, had completed a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary. Completion standards shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the postsecondary level.

**Line I.D.4. Completion of worksite training objective.** Enter by quarter, the total number of participants who, at termination, had attained a level of work readiness, through worksite training, which had not been reached at entry. This includes the completion of a work experience, tryout employment or community service employment assignment, and/or completion of an occupational skills, pre-apprenticeship, or job-upgrading program.

**Line I.D.5. Attained basic/occupational skills proficiency.** Enter by quarter, the total number of participants who, at termination, had demonstrated proficiency, as defined by the grantee in one or more of the following two skill areas in which the trainee was deficient at enrollment: Basic education skills and occupational skills. Skill gain must be achieved through active program participation and must be the result of a prior employability development planning process which identifies the participant's skill deficiencies, the training needed to overcome the deficiencies and the level of proficiency needed for attainment of the basic/occupational skills.

Documented skill gains achieved from completion of a pre-apprenticeship course, a youth employment competency program, an adult basic education program, an English as a Second Language (ESL) program, or a course in remedial and/or supplemental basic skills are acceptable. Training needed to achieve this outcome may be funded from section 401 or other sources.

**Basic education skills—**Training that includes remedial reading, writing, communication, mathematics and/or English for non-English speakers.

**Line I.D. Employability Enhancements**

Employability enhancement is an outcome for participants other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Entered Non-Section 401 Training, (2) Returned to Full-Time School, (3) Completed Major Level of Education, (4) Completion of Worksite Training Objective, and (5) Attained Basic/Occupational Skills Proficiency.

**Section II. Participation In Program Activities**

This section provides the cumulative number of actual participants to date in each program activity.

The program activities listed have been provided for standardized reporting purposes and to follow the discussion of allowable activities in 20 CFR 632.78. No total is required for these entries since participants may be in more than one activity concurrently or throughout their participation in the program and, therefore, would be counted in more than one program activity. Only those participants financed with section 401 funds should be entered here. Enter separately, the number of participants in: (a) Community Benefit Projects and (b) All Other Participants.

Participants receiving services only should be counted only in section I, Participation and Termination Summary, as appropriate.

For each program activity, enter the actual cumulative total number of participants in the activity on a quarterly basis. This Line includes participants who were in the activity at the beginning of the year and participants who entered after the start of the year. Participants in more than one program activity should be reported only once for each activity in which they participate.

**Line II.A. Classroom Training: (Basic Education)**

**Line II.B. Classroom Training: (Job Skills)**

**Note:** (includes occupational and remedial training)

Enter the cumulative number of participants expected to be in occupational classroom training activities operated by the grantee, its contractor or subgrantee. Occupational classroom training includes training ordinarily conducted in an institutional



setting and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. Participants in other classroom activities which are designed to enhance the employability of the participant by upgrading basic skills (e.g., remedial education or training in English language proficiency) also would be included here.

**Line II.C. On-the-Job training and Tryout Employment**

Enter the cumulative number of participants expected to be in On-the-Job Training and Tryout Employment as referred to at (20 CFR 632.78(c)).

**Line II.D. Work Experience**

Enter the cumulative number of participants expected to be in Work Experience activities. In school work experience activities include part-time employment for students enrolled full-time in, and attending, an elementary, secondary, trade, technical or vocational school, or college or a university, or scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools. Also, include here the number of participants expected to be enrolled in work experience activities other than in-school work experience activities.

**Line II.E. Community Service Employment**

Enter the cumulative number of participants expected to be in the Community Service Employment

activities referred to at (20 CFR 632.79(a)).

**Line II.F. Training Assistance and/or Supportive Services**

*Training assistance*—Includes, but is not limited to:

- (a) Training Assistance to Applicants.
  - (1) Outreach.
  - (2) Intake.
  - (3) Screening for eligibility determination.
- (b) Training Assistance to Participants.
  - (1) Orientation to the world of work.
  - (2) Job-related counseling and testing.
  - (3) Employability assessment (other than that involved during intake).
  - (4) Job development.
  - (5) Job search assistance.
  - (6) Job referral and placement.
  - (7) Vocational Exploration Program (VEP).

Enter the cumulative number of participants expected to be in Training Assistance and/or Supportive Services activities.

**Instructions for Section III—Community Benefit Project(S) Status**

Enter the status of the community benefit project(s) goals, specified in the grantee's plan, as of the end of the report period.

**Note:** There is no Significant Characteristics of Terminees section on the IPSS as there is on the IPPS. However, grantees are required to have program management systems (see 20 CFR 632.76) that enable them to maintain this information for year-end reports. Goals for Significant Characteristics of Terminees from the IPPS will be compared against actual performance

reflected in appropriate items on the Annual Status Report (IASR).

**Instructions for Section IV—Certification**

Enter the typed name, title, and signature of an authorized official and the date the report was submitted.

**Indian and Native American (INA), JTPA Section 401 Grants, Annual Status Report (IASR)**

1. *Purpose.* The INA Annual Status Report (IASR) displays cumulative data on participation, termination, performance measures and the socio-economic characteristics of all terminees on an annual basis. The information will be used to determine levels of program service and performance measures.

2. *General instructions.* The IASR is required for each JTPA title IV-A, section 401 grant.

Each reporting period begins on the start date of each JTPA program year, as stated in section 161 of the Act. The INA Annual Status Report (IASR) replaces the fourth quarter of the INA Program Status Summary (IPSS) and the INA Financial Status Report (IFSR). Three copies of the IASR are to be provided to: U.S. Department of Labor, Employment and Training Administration, ATTN: TSVR—room S-5306, 200 Constitution Avenue NW., Washington, DC 20210.

Reports due at DOL are to be postmarked no later than 90 days after the end of each program year.

3. *Facsimile of form.* The IASR form is ETA 8604. See the following page.

BILLING CODE 4510-30-M



OMB Approval No.

U.S. DEPARTMENT OF LABOR: Employment and Training Administration

## JTPA INDIAN/NATIVE AMERICAN PROGRAM ANNUAL STATUS REPORT

A. GRANTEE NAME AND ADDRESS		b. GRANT NO.	c. REPORT PERIOD	
			From:	To:
		d. TYPE OF PROGRAM ("x" One)		
		<input type="checkbox"/> Title IV-A Section 401 <input type="checkbox"/> Other (specify)		
I. PARTICIPATION AND TERMINATION SUMMARY			COMMUNITY BENE. PROJECTS (A)	ALL OTHER (B)
A. TOTAL PARTICIPANTS				
B. TOTAL TERMINATIONS				
1. Entered Unsubsidized Employment				
a. Direct (No Training or Subsidized Employment)				
b. Indirect (After Training/Subsidized Employment)				
(1) Also Attained Any Employability Enhancement				
2. Attained Employability Enhancement ONLY				
3. All Other Terminations				
C. TOTAL CURRENT PARTICIPANTS				
D. EMPLOYABILITY ENHANCEMENTS				
1. Entered Non-Section 401 Training				
2. Returned to Full-Time School				
3. Completed Major Level of Education				
4. Completion of Worksite Training Objective				
5. Attained Basic/Occupational Skills Proficiency				
II. TERMINEE PERFORMANCE MEASURES INFORMATION				
1	SEX	Male		
2		Female		
3	AGE	Under 22		
4		22 - 29		
5		30 - 54		
6		55 and Over		
7	EDUCATION STATUS	School Dropout		
8		Student		
9		High School Graduate or Equivalent (No Post-High School)		
10		Post-High School Attendee		
e. SIGNATURE AND TITLE			f. DATE SIGNED	g. TELE. NO.



a. GRANTEE NAME AND ADDRESS		b. GRANT NO.	c. REPORT PERIOD		d. TYPE OF PROGRAM	
			From:	To:		
<b>II. TERMINEE PERFORMANCE MEASURES INFORMATION-CONT'D</b>					<b>COMMUNITY BENE. PROJECTS</b>	<b>ALL OTHER</b>
					(A)	(B)
11	FAM. STAT.	Single Head of Household w/Dependents Under Age 18				
12	OTHER BARRIERS TO EMPLOYMENT	Limited English Language Proficiency				
13		Handicapped				
14		Offender				
15		Reading Skills Below 7th Grade Level				
16		JOBS Program Participant				
17		Multiple Barriers to Employment				
18	U.C. STAT.	Unemployment Compensation Claimant				
19	LABOR FORCE STATUS	Unemployed: 15 or More Weeks of Prior 26 Weeks				
20		Not in Labor Force				
21	PUBLIC ASSIST. INFORM.	Public Assistance Recipient				
22		■ BIA/Tribal Welfare Recipient				
23	VETERAN STATUS	Veteran (Total)				
24		■ Veteran (Vietnam Era)				
25	TRAINING INFORMATION	Average Weeks in All [Specific] Training				
26		■ Average Weeks in Section 401 Training				
27		Concurrent Participation in Other Training Programs				
28	OTHER PROGRAM INFORMATION	Average Weeks Participated				
29		Average Hourly Wage -- Preprogram				
30		Average Hourly Wage at Termination				
<b>III. TOTAL PROGRAM COSTS</b>		<b>TOTAL</b>	<b>TRAINING</b>	<b>EMPLOYMENT</b>	<b>OTHER</b>	
		(A)	(B)	(C)	(D)	
31	Classroom Training					
32	On-The-Job Training and Tryout Empl.					
33	Training Assistance					
34	Work Experience					
35	Community Service Employment					
36	General Other Activities (Non E/T)					
37	All Supportive Services					
38	Administration					
39	Total					
40	■ Community Benefit Projects Only					



a. GRANTEE NAME AND ADDRESS		b. GRANT NO.	c. REPORT PERIOD From: To:		d. TYPE OF PROGRAM
IV. PARTICIPATION IN PROGRAM ACTIVITIES			COMMUNITY BENE. PROJECTS (A)	ALL OTHER (B)	
41	Classroom Training: Basic Education				
42	Classroom Training: Job Skills				
43	On-The-Job Training/Tryout Employment				
44	Work Experience				
45	Community Service Employment				
46	Training Assistance and/or Supportive Services Only				
V. COMMUNITY BENEFIT PROJECT(S) ACCOMPLISHMENTS					
GOAL A:					
GOAL B:					
GOAL C:					
GOAL D:					
GOAL E:					
COMMENTS:					



4. *Instructions for Completing the INA JTPA Section 401 Grants, Annual Status Report (IASR)*—a. *Grantee name and address.* Enter the name and address of the grantee as it appears on the appropriate Notice of Obligation (or equivalent).

b. *Grant number.* Enter the grant number as it appears on the appropriate Notice of Obligation (or equivalent).

c. *Report period.* Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of that program year.

d. *Type of program.* Check the appropriate box. If Other, specify the type of program.

e. *Signature and title (at bottom of the page).* The authorized official should sign here and enter his or her title.

f. *Date signed.* Enter the date the report was signed by the authorized official.

g. *Telephone number.* Enter the area code and telephone number of the authorized official.

5. *General information.* Unless otherwise indicated, data reported on characteristics of trainees should be based on information collected at the time of eligibility determination. Characteristics information on an individual at the time of eligibility determination for the recipient's JTPA program should not be updated when the individual terminates from the JTPA program.

#### Column Headings

##### Column (A) Community Benefit Projects

This column will contain an entry for each appropriate item for participants in Community Benefit Projects.

##### Column (B) All Other

This column will contain an entry for each appropriate item for all participants, except those in Community Benefit Projects.

#### Section I—Participation and Termination Summary

Section I displays the program's accomplishments in terms of the total cumulative number of participants in the program, the number and types of terminations from the program, and the number of participants currently enrolled in the program as of the end of the reporting period.

Entries for Lines I.A. and I.B. are cumulative from the beginning of the program year through the end of the reporting period. Entries for Line I.C. reflect the current number of participants as of close of business on the last day of the reporting period.

#### Line Item Definitions and Instructions

Line I.A. *Total participants.* Enter by column the total number of participants who are or were in the program through the end of the reporting period, including both those on board at the beginning of the designated program year and those who have entered during the program year. If individuals receive concurrent employment, training and/or services under more than one title they are to be considered participants in both titles for purposes of recording actual number of weeks of active participation and training, dollars expended, program accomplishments, and other pertinent data.

Participants who have transferred from one title to another, or between programs of the same title, should be recorded as terminations from the title or program of initial participation and included as participants in the title or program into which they have transferred, unless they are to be considered concurrent participants in both titles or programs.

*Participant*—Any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving employment, training, or services (except post-termination services) funded under the Act following intake. This does not include individuals who receive only outreach and/or intake and initial assessment services.

*Outreach services*—The collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA section 401 training and support services.

*Intake services*—The screening for eligibility; and (1) A determination of whether the program can benefit the individual; (2) an identification of the employment and training activities and services which would be appropriate for that individual; (3) a determination of the availability of an appropriate employment and training activity; (4) a decision on selection for participation; and (5) the dissemination of information on the program.

*Assessment services*—A service designed to initially determine each participant's employability, aptitude, abilities and interests, through interviews, testing and counseling to achieve the applicant's employment related goals.

#### Line I.B. Total Terminations

Enter by column the total number of participants terminated from the program for any reason from the beginning of the program year through

the end of the reporting period. This Line is the sum of Lines I.B.1. through I.B.3.

*Termination*—The separation of a participant from a given title of the Act who is no longer receiving employment, training or services (except post-termination services) funded under that title. **Note:** Individuals may continue to be considered as participants for a single period of up to 90 days after last receipt of employment and/or training (30 days after last receipt of services only) funded under a given title. During the 90-day period, individuals may receive services. When calculating average weeks participated, this period between "last receipt of employment and/or training funded under a given title" and actual date of termination is defined as "inactive status" and is not to be included in Line 28. Post-termination services may be provided to individuals for a period of time not to exceed 30 days following termination (20 CFR 632.80(a)(5)).

Line I.B.1. *Entered unsubsidized employment.* Enter by column the total number of participants who, at termination, entered (through the grantee or otherwise) full or part-time unsubsidized employment through the end of the reporting period.

*Unsubsidized employment*—Employment not financed from funds provided under the Act which includes a job, entry into the Armed Forces, entry into employment in a registered apprenticeship and/or military service, or self-employment.

Distribute the trainees who entered unsubsidized employment in one of the groups listed below. Lines I.B.1.a. and I.B.1.b. should sum to I.B.1.

Line I.B.1.a. *Direct (no training or subsidized employment).*

Line I.B.1.b. *Indirect (after training/subsidized employment).*

*Direct*—A trainee who has received no basic skills or occupational skills training or subsidized employment while a section 401 participant.

*Subsidized employment*—Employment financed from funds provided under the Act.

*Indirect*—A trainee who has received basic skills and/or occupational skills training or subsidized employment while a Section 401 participant.

Line I.B.1.b.(1). *Also attained any employability enhancement.* Enter by column the total number of trainees who (1) Entered unsubsidized employment, Line I.B.1., and (2) also had one of the five employability enhancement outcomes under Section I.D., Lines I.D.1. through 5. This Line is a sub-breakout of Line I.B.1.b.



Line I.B.2. *Attained employability enhancement ONLY.* Enter by column the total number of terminees who (1) Were not placed in unsubsidized employment and (2) attained one of the following enhancement outcomes. (A terminee shall be reported only once on this line even though more than one enhancement may have been achieved.)

Note: This is an unduplicated count.

Line I.B.3. *All other terminations.* Enter by column the total number of participants who were terminated for reasons other than those in Lines I.B.1. and I.B.2., through the end of the reporting period. The sum of Lines I.B.1., I.B.2., and I.B.3. in each column should equal Line I.B.

Line I.C. *Total Current Participants*

Enter by column the total number of participants in the program as of close of business on the last day of the reporting period who will continue to receive services into the next reporting period. This line, in each column, is the difference between Lines I.A. and I.B. in that column.

#### Section I.D.—Employability Enhancements

Employability enhancement is an outcome for participants other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Entered Non-Section 401 Training, (2) Returned to Full-Time School, (3) Completed Major Level of Education, (4) Completion of Worksite Training Objective, and (5) Attained Basic/Occupational Skills Proficiency.

Distribute by column the total number of terminees who attained any of the following enhancement outcomes. A terminee shall be reported in only one of the five categories listed below, even though more than one outcome may have been achieved. The sum of Lines I.D.1. through I.D.5. should equal the sum of Lines I.B.1 b.(1) and I.B.2.

Line I.D.1. *Entered non-section 401 training.* Enter by column the total number of participants who, at termination, entered an occupational skills training program or postsecondary education program not funded under section 401 of the JTPA, which builds upon and does not duplicate training received under section 401.

*Occupational skills training—* Training that includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a

specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

Line I.D.2. *Returned to full-time school.* Enter by column the total number of participants who, at termination, had returned to full-time secondary school (e.g., junior high school, middle school and high school), including alternative school, if, at the time of intake the individual was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent. Also enter on this line the total number of at-risk youth who were retained in school as a result of continuing active participation in the Section 401 program.

*At-risk youth—*Youth whom the grantee regards as within a group that may drop out of school prior to receipt of a high school diploma. Such an outcome must be consistent with the goals and service strategy set for the participant in his or her Employability Development Plan (EDP).

*Alternative school—*A specialized, structured curriculum offered inside or outside of the public school system which may provide work/study and/or GED preparation.

Line I.D.3. *Completed major level of education.* Enter by column the total number of participants who, at termination, had completed a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary. Completion standards shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the postsecondary level.

Line I.D.4. *Completion of worksite training objective.* Enter by column the total number of participants who, at termination, had attained a level of work readiness, through worksite training, which had not been reached at entry. This includes the completion of a work experience, tryout employment or community service employment assignment, and/or completion of an occupational skills, pre-apprenticeship, or job-upgrading program.

Line I.D.5. *Attained basic/occupational skills proficiency.* Enter by column the total number of participants who, at termination, had demonstrated proficiency, as defined by the grantee in one or more of the following two skill areas in which the terminee was

deficient at enrollment: Basic education skills and occupational skills. Skill gain must be achieved through active program participation and must be the result of a prior employability development planning process which identifies the participant's skill deficiencies, the training needed to overcome the deficiencies and the level of proficiency needed for attainment of the basic/occupational skills.

Documented skill gains achieved from completion of a pre-apprenticeship course, a youth employment competency program, an adult basic education program, an English as a Second Language (ESL) program, or a course in remedial and/or supplemental basic skills are acceptable. Training needed to achieve this outcome may be funded from section 401 or other sources.

*Basic education skills—*Training that includes remedial reading, writing, communication, mathematics and/or English for non-English speakers.

*Section II—Terminee Performance Measures Information.* Section II displays performance measures/parameters information. As indicated previously, data reported on characteristics of terminees should be based on information collected at time of eligibility determination unless otherwise indicated herein.

#### Line Item Definitions and Instructions

##### Sex

Line 1 Male.

Line 2 Female.

Distribute by column the total number of terminees according to Sex. The sum of Lines 1 and 2 in each column should equal Line I.B. in that column.

##### Age

Line 3 Under 22.

Line 4 22–29.

Line 5 30–54.

Line 6 55 and Over.

Distribute by column the total number of terminees according to Age. The sum of Lines 3 through 6 in each column should equal Line I.B. in that column.

##### Education Status

Line 7 School dropout.

Line 8 Student.

Line 9 High school graduate or equivalent (no post-high school).

Line 10 Post-high school attendee.

Distribute by column the total number of terminees according to Education Status. The sum of Lines 7 through 10 in each column should equal Line I.B. in that column.

*School dropout—*An adult or youth (aged 14–21) who is not attending school



full-time and has not received a high school diploma or a GED certificate.

**Student**—An adult or youth (aged 14–21) who has not received a high school diploma or a GED certificate and is enrolled in and attending full-time a secondary or postsecondary-level vocational, technical or academic school, or is between school terms and intends to return to school.

**High school graduate or equivalent (no post-high school)**—An adult or youth (aged 14–21) who has received a high school diploma or a GED certificate, but who has not attended any postsecondary-level vocational, technical or academic school.

**Post-high school attendee**—An adult or youth (aged 14–21) who has received a high school diploma or a GED certificate and has attended (or is attending) any postsecondary level vocational, technical or academic program (one normally requiring a high school diploma or GED for entry).

#### Family Status

**Line 11 Single head of household with dependent(s) under age 18**

Enter by column the total number of terminees for whom the above Family Status classification applies.

**Single head of household**—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

#### Other Barriers to Employment

**Line 12 Limited English Language Proficiency**

**Line 13 Handicapped**

**Line 14 Offender**

**Line 15 Reading Skills Below 7th Grade Level**

**Line 16 JOBS Program Participant**

**Line 17 Multiple Barriers to Employment.**

Enter by column the total number of terminees for whom each of the above Other Barriers to Employment apply.

**Limited english language proficiency**—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

**Handicapped individual**—Refer to Section 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. This definition includes disabled veterans for reporting purposes.

**Note:** This definition will be used for performance standards purposes, but is not required to be used for program eligibility determination (Section 4(8)(E)).

**Offender**—For reporting purposes, the term "offender" is defined as any adult or youth who requires assistance in overcoming barriers to employment resulting from a record of arrest or conviction (excluding misdemeanors).

**Reading skills below 7th grade level**—An adult or youth assessed as having English (except in Puerto Rico) reading skills below the 7th grade level on a generally accepted standardized test.

**Note:** The following other methods of determination may be used:

- A school record of reading level determined within the last 12 months.
- If an applicant is unable to read and therefore cannot complete a self-application for the JTPA program, he or she may be considered to have English reading skills below the 7th grade level:
- Individuals with any of the following may be considered to have English reading skills above the 7th grade level:

—A GED certificate received within the last year.

—A degree (usually a BA or BS) conferred by a 4-year college, university or professional school.

If there is any question regarding reading ability, a standardized test should be administered.

**JOBS program participant**—Any individual (AFDC client) who is a participant (or has been a participant within the prior six months) in an activity, including assessment or employability planning, funded under the JOBS program (Family Support Act of 1988, Pub. L. 100–485) at the time of eligibility determination for JTPA section 401.

**Multiple barriers to employment**—Any adult or youth who has three or more of the following barriers to employment:

School Dropout  
Limited English Language Proficiency  
Handicapped Individual  
Offender  
Reading Skills Below 7th Grade Level  
JOBS Program Participant

**Math skills below the 7th grade level**—An adult or youth assessed as having mathematical/computational skills below the 7th grade level on a generally accepted standardized test.

**Long-term AFDC/GA recipient**—An adult or youth listed on the welfare grant who had received cash payments under AFDC (SSA Title IV), or General Assistance (BIA, State or local government), for any 24 or more of the 30 months prior to JTPA eligibility determination and who was a welfare recipient at the time of such determination.

**Lacks significant work history**—An adult or youth who had not worked for the same employer for longer than three consecutive months in the two years prior to JTPA eligibility determination. A suggested approach for obtaining information on whether a participant lacks a significant work history: To the participant, "Think back over the past two years about full-time and part-time jobs you have had. Which employers did you work for during this period? How long did you work for Employer A, for Employer B, for Employer C, etc.?"

**Homeless**—An adult or youth who lacks a fixed, regular, adequate nighttime residence; and an adult or youth who has a primary nighttime residence that is: (1) A publicly or privately operated shelter for temporary accommodation (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), (2) an institution providing temporary residence for individuals intended to be institutionalized, or (3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include a person imprisoned or detained pursuant to an Act of Congress or State law.

**Substance abuse**—An individual who has an alcohol and/or other drug problem which for such an individual constitutes or results in a substantial barrier to employment. Grantees are responsible for developing criteria for identifying those individuals considered to be substance abusers in their programs.

**Pregnant/parenting teen**—A female age 19 and under who either is pregnant or the mother of a child, or a male age 19 and under who is the father of a child.

**Note:** Math Skills Below the 7th Grade Level, Long-Term AFDC/GA Recipient, Lacks Significant Work History, Homeless, Substance Abuse, and Pregnant/Parenting Teen, will not be collected as separate line items on the IASR. Individuals determined to have these barriers, in addition to the IASR line item barriers, may be included on the multiple barriers line.

#### U.C. Status

**Line 18 Unemployment Compensation Claimant**

Enter by column the total number of terminees for whom the Unemployment Compensation Status classification applies.

**Unemployment compensation claimant**—An individual who has filed a claim and has been determined monetarily eligible for benefit payments under one or more State or Federal unemployment compensation programs, and who has not exhausted benefit



rights or whose benefit year has not ended.

#### Labor Force Status

Line 19 Unemployment: 15 or More

Weeks of Prior 26 Weeks.

Line 20 Not in Labor Force.

Enter by column the total number of trainees for whom each of the above Labor Force Status classifications apply.

**Unemployed: 15 or more weeks of prior 26 weeks**—An individual who is unemployed (refer to definition below) at the time of eligibility determination and has been unemployed for any 15 or more of the 26 weeks immediately prior to such determination, has made specific efforts to find a job throughout the period of unemployment, and is not classified as "Not in Labor Force".

**Not in labor force**—A civilian 14 years of age or over who did not work during the 7 consecutive days prior to application for a JTPA program and is not classified as employed or unemployed.

**Employed**—(a) An individual who, during the 7 consecutive days prior to application to a JTPA program did any work at all: (i) As a paid employee; (ii) in his or her own business, profession or farm, or (iii) worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family; or (b) an individual who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job. (This term includes members of the Armed Forces on active duty, who have not been discharged or separated; participants in registered apprenticeship programs; and self-employed individuals.)

**Part-time employed**—An individual who is regularly scheduled for work less than 30 hours per week.

**Unemployed**—An individual who did not work during the 7 consecutive days prior to application for a JTPA program, who made specific efforts to find a job within the past 4 weeks prior to application, and who was available for work during the 7 consecutive days prior to application (except for temporary illness).

#### Public Assistance Information

Line 21 Public Assistance Recipient.

Line 22 BIA/Tribal Welfare Recipient.

Enter by column the total number of trainees for whom each of the above Public Assistance classifications apply. Line 22 is a sub-breakout for a specific group included in Line 21.

**Public assistance recipient**—An individual who, at the time of JTPA eligibility determination, was listed on the welfare grant and was receiving cash payments from a means-tested, income transfer program or receiving Food Stamps. The income transfer programs include AFDC (SSA title IV), General Assistance (Tribal, BIA, State or local government), Refugee Assistance (Pub. L. 96-212), and SSI (SSA title XVI).

**BIA/tribal welfare recipient**—Any participant who, at the time of JTPA eligibility determination, was listed on the welfare grant and was receiving cash payments under Bureau of Indian Affairs (BIA) General Assistance (BIA 25 CFR 20.21) or any cash payments directly provided by the tribal government.

#### Veteran Status

Line 23 Veteran (Total).

Line 24 ☐ Veteran (Vietnam Era).

**Veteran**—A person who served on active duty in the military, naval, or air service (of the U.S.) for a period of more than 180 days and who was discharged or released therefrom with other than a dishonorable discharge or was discharged or released from active duty because of a service-connected disability. (38 U.S.C. 2011(4)).

**Note:** The term "active" means full-time duty in the Armed Forces, other than duty for training in the reserves or National Guard. Any period of duty for training in the reserves or National Guard, including authorized travel, during which an individual was disabled from a disease or injury incurred or aggravated in the line of duty, is considered "active" duty. The term "active" is further defined at (38 U.S.C. 101).

**Disabled veteran**—A veteran who is entitled to compensation under laws administered by the Veterans' Administration, or an individual who was discharged or released from duty because of a service-connected disability.

**Vietnam-ERA veteran**—A veteran, any part of whose active military, naval, or air service occurred between August 5, 1964 and May 7, 1975.

Enter by column the total number of trainees for whom each of the above Veteran classifications apply. Line 24 is a sub-breakout for a specific group included in Line 23.

#### Training Information

Line 25 *Average weeks in all (specific) training.* Enter by column for all trainees the average number of weeks in which participants spent 20 or more hours per week in all training (JTPA and non-JTPA). (See definition at Line 27.)

To calculate this entry: Count the number of days in any qualifying training activity for each trainee, including weekends, from the start date of his/her participation in that training until his/her last receipt of that training. Repeat for any additional training activity. Divide this result by 7. This will give the number of weeks in training for that trainee. Sum all the trainees' weeks of training and divide the result by the number of trainees, as entered (by column) in Line I.B. This entry should be reported to the nearest whole week.

**Note:** Trainees who have received any training activity funded under a cooperative agreement with: (1) Other JTPA monies or (2) other than JTPA funds may be counted in this line, provided such training was for the completion of the initially determined training objective, and the participant is concurrently enrolled in JTPA at the same time s/he is enrolled in the other training program.

Line 26 *Average weeks in section 401 training.* Enter by column for all trainees the average weeks in only JTPA section 401 program funded training.

To calculate this entry: Count the number of days in any section 401 funded training activity for each trainee, including weekends, from the start date of his/her participation in that training until his/her last receipt of that training. Repeat for any additional section 401 funded training activity. Divide this result by 7. This will give the number of weeks in section 401 funded training for that trainee. Sum all the trainees' weeks of section 401 funded training and divide the result by the number of trainees, as entered (by column) in Line I.B. This entry should be reported to the nearest whole week.

Line 27 *Concurrent participation in other training programs.* Enter by column the total number of section 401 program participants who are also concurrently participating in other related training programs including, but not limited to JOBS, BIA, basic education and vocational education programs.

**Note:** The following definition of training is to be used for Lines 25-27. This definition of training is not to be used for the training cost category in section III of the IASR, or the INA Budget Information Summary and Financial Status Report.

#### Training Activities

Remedial education and basic skills training  
Literacy and bilingual training  
Institutional skill training  
Classroom training  
Occupational skills training  
On-the-job training



On-site industry-specific training  
 Customized training  
 Education-to-work transition training  
 Pre-apprenticeship training  
 Upgrading and retraining  
 Vocational explorational training  
 Work experience training  
 Training to develop marketable work habits  
 Coordinated training programs with other  
 Federal employment-related activities  
 Community Service Employment

Exclude the following services (unless these services are included as part of the training activities listed above):

Supportive services  
 Outreach and intake  
 Orientation  
 Assessment  
 Testing  
 Job or career counseling  
 Job club activities  
 Job search assistance  
 Job placement assistance

#### Other Program Information

Line 28 *Average weeks participated.* Enter by column the average number of weeks of participation in the section 401 program for all trainees. Weeks of participation include the period from the date an individual becomes a participant in the program through the date of a participant's last receipt of employment and/or training funded under the program. Exclude the single period of up to 90 days during which an individual may remain in an inactive status prior to termination. Time in inactive status for all trainees should not be counted toward the actual number of weeks participated.

Inactive status is defined as that period between "last receipt of employment and/or training funded under the program" and the actual date of termination.

To calculate this entry: Count the number of days participated for each trainee, including weekends, from the start date of his/her participation in the section 401 program until his/her last receipt of employment and/or training under the program. For those who received services only, use date of last receipt of such services. Divide this result by 7. This will give the number of weeks participated for that trainee. Sum all the trainees' weeks of participation and divide the result by the number of trainees, as entered (by column) in Line I.B. This entry should be reported to the nearest whole week.

Line 29 *Average hourly wage—preprogram.* Enter by column the average pre-section 401 program hourly wage of only those trainees who entered unsubsidized employment. In calculating this average, use the hourly wage from the last job held. Those trainees who entered unsubsidized

employment and had no pre-section 401 program employment should be counted as "\$0.00" hourly wage.

To calculate the entry: Sum the pre-program hourly wage at termination for all the trainees who entered unsubsidized employment shown in Line I.B.1. Divide the result by the number of trainees shown in Line I.B.1.

Note: For the calculation, use the hourly wage regardless of whether the individual was employed full-or-part-time.

Line 30 *Average hourly wage at termination.* Enter by column the average hourly wage at termination for all trainees who entered unsubsidized employment shown in Line I.B.1.

To calculate the entry: Sum the hourly wage at termination for all the trainees who entered unsubsidized employment shown in Line I.B.1. Divide the result by the number of trainees shown in Line I.B.1.

Hourly wage includes any bonuses, tips, gratuities and commissions earned.

#### Section III—Total Program Costs

This section represents the total actual accrued expenditures for the grantee's program, through the end of the reporting period, for all participants served. This section updates the information reported on the INA Financial Status Report (IFSR) for the third quarter.

Note: Entries will be made to the nearest dollar. Negative entries are not acceptable. Section 401 program cost data will be compiled on an accrual basis. If the grantee's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

*Accrued expenditures*—The allowable charges incurred during the program year to date requiring provision of funds for: (1) Goods and other tangible property received; and (2) costs of services performed by employees, contractors, sub-recipients, and other payees.

Note: These charges do not include "resources on order", i.e., amounts for contracts, purchase orders and other obligations for which goods and/or services have not been received.

#### Column Headings

##### Column (A) Total

This column includes an entry on Line 38 for costs of Administration. The entry on Line 39, Total, will be a summation of all non-administrative costs entered on Lines 31 through 37 in Columns (B) through (D), as appropriate, plus the entry on Line 38 in Column (A).

##### Column (B) Training

This column includes costs (except Supportive Services) which directly affect program participants in a training activity, including classroom training, OJT, youth tryout employment and training assistance.

##### Column (C) Employment

This column includes costs (except Supportive Services) associated with Work Experience and Community Service Employment.

##### Column (D) Other

This column includes General Other Activities (Non E/T) and All Supportive Services, which are services necessary to enable an individual to participate in training and assistance under section 401 of the Act, and those activities and services described in 20 CFR 632.80.

#### Line Items

- Line 31 Classroom training.
- Line 32 On-the-job training and tryout employment.
- Line 33 Training assistance.
- Line 34 Work experience.
- Line 35 Community service employment.
- Line 36 General other activities (non-E/T).
- Line 37 All supportive services.
- Line 38 Administration.
- Line 39 Total.
- Line 40 Community Benefit Projects ONLY.

Distribute the entries for Lines 31 through 37 by the appropriate cost category. (Refer to 20 CFR 632.38.) The sum of Lines 31 through 38 (Columns B through D) should be entered on Line 39 in Column A.

Note: The entry for Line 40 is a sub-breakout of the entry for Line 39 in Column (A).

#### Section IV—Participation in Program Activities

This section provides the total number of section 401 program participants by specific program activity for the reporting period. This section updates the information reported in Section II of the INA Program Status Summary for the third quarter.

- Line 41 Classroom training: basic education.
- Line 42 Classroom training: job skills.
- Line 43 On-the-job training/tryout employment.
- Line 44 Work Experience.
- Line 45 Community Service Employment.
- Line 46 Training Assistance and/or Supportive Services Only.



Training Assistance—Includes, but is not limited to:

(a) Training Assistance to Applicants

- (1) Outreach
- (2) Intake
- (3) Screening for eligibility determination

(b) Training Assistance to Participants

- (1) Orientation to the world of work
- (2) Job-related counseling and testing
- (3) Employability assessment (other than that involved during intake)
- (4) Job development

- (5) Job search assistance
- (6) Job referral and placement
- (7) Vocational Exploration Program (VEP)

Enter by column the total number of trainees who participated in each of the above activities for the program year. A participant should be included in as many line items as appropriate, but should be counted only once for each line.

*Section V—Community Benefit Project(s) Accomplishments*

Describe actual accomplishments of Community Benefit Project(s) and enter numerical results which correspond to the goals specified in the grantee's plan.

[FR Doc. 91-2845 Filed 2-7-91; 8:45 am]

BILLING CODE 4510-30-M



# **Registered Federal Register**

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**Friday  
February 8, 1991**

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## **Part IV**

### **Department of Commerce**

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**National Oceanic and Atmospheric  
Administration**

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**15 CFR Part 940**

**Stellwagen Bank National Marine  
Sanctuary; Notice of Public Hearings and  
Proposed Rulemaking**



**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 940**

[Docket No. 900942-0242]

RIN 0648-AC94

**Stellwagen Bank National Marine Sanctuary Regulations**

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Proposed rule; notice of proposed designation; summary of draft management plan; and notice of public availability of draft management plan and draft environmental impact statement.

**SUMMARY:** By this notice, NOAA, pursuant to section 205(b)(1) of Public Law No. 100-627, is proposing to designate an approximately 453 square nautical mile area of ocean waters, over and surrounding Stellwagen Bank, and the submerged lands thereunder, offshore the Commonwealth of Massachusetts as a National Marine Sanctuary. This notice publishes the proposed Designation Document for the proposed Sanctuary and summarizes the draft management plan for it. The draft management plan details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the proposed Sanctuary. By this notice, NOAA proposes regulations to implement the proposed designation and regulate activities consistent with the provisions of the proposed Designation Document. Finally, this notice announces the public availability of the Draft Environmental Impact Statement/Management Plan (DEIS/MP) prepared for the proposed designation. The intended effect of the proposed designation, proposed regulations, and DEIS/MP is to protect the conservation, recreational, ecological, historical, research, educational, or esthetic qualities of the Stellwagen Bank area.

**DATES:** Comments are invited and will be considered if submitted in writing to the address below on or before April 9, 1991.

**ADDRESSES:** Comments may be submitted to Joseph A. Uravitch, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource

Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.

**FOR FURTHER INFORMATION CONTACT:** Susan Durden, Regional Manager, (202/673-5122).

**SUPPLEMENTARY INFORMATION:** Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, (the "Act"), 16 U.S.C. 1431 *et seq.*, authorizes the Secretary of Commerce to designate discrete areas of the marine environment as National Marine Sanctuaries to protect their conservation, recreational, ecological, historical, research, educational or esthetic qualities.

Comments are solicited from all interested persons. Holders of, owners of, or future applicants for leases, permits, licenses, approvals, other authorizations, or rights, are specifically invited to comment on how they may be affected by the proposed designation of the Sanctuary and particularly §§ 940.8-940.11 of the proposed regulations. Comments are also in particular invited on the adequacy of the regulatory regime to protect Sanctuary resources and Sanctuary qualities.

After the comments received during the comment period have been considered, a final environmental impact statement and management plan will be prepared, and a notice of designation together with final regulations implementing the designation will be published in the **Federal Register**. The designation and regulations shall take effect and become final after the close of a 45-day Congressional review period unless a joint resolution disapproving the designation or any of its terms is enacted. A document will be published in the **Federal Register** announcing the effective date.

In January 1982, NOAA published a Program Development Plan (PDP) for the National Marine Sanctuary Program, describing the Program's mission and goals; site identification and selection criteria; and the nomination and designation process. Based on the PDP and Program regulations, NOAA published a proposed Site Evaluation List (SEL) of highly-qualified marine sites identified and recommended to NOAA by regional resource evaluation teams, based on Program mission and goals. Comments on the proposed SEL and additional site recommendations were solicited from the public during the autumn of 1982.

In response to a public nomination from Dr. Charles A. Mayo, of the

Provincetown Center for Coastal Studies, and Defenders of Wildlife, Inc., the North Atlantic Regional Resource Evaluation Team recommended the addition of Stellwagen Bank to the proposed SEL. Following a second public comment period on proposed changes or additions to the SEL, the final SEL, incorporating Stellwagen Bank and 28 other sites, was published in August 1983. (The SEL is periodically re-evaluated to determine the need for any changes. Public comments are also requested during such reevaluation periods.)

All SEL sites meet Program criteria for further consideration as possible sanctuaries, although placement on the SEL does not necessarily mean that a site will become a National Marine Sanctuary. In the normal process of national marine sanctuary designation, the Secretary of Commerce (through NOAA) will, from time to time, select sites from the SEL as Active Candidates. Selection of a site as an Active Candidate formally initiates the Process of a site's further consideration for Sanctuary designation. A full National Environmental Policy Act (NEPA) process is required in the consideration of any proposed Sanctuary site, including the preparation of draft and final environmental impact statements and management plans.

On November 7, 1988, Public Law No. 100-627, which amends and authorizes appropriations for title III of the Act, was signed into law. Congressional amendments made to the Act establish a finite period of time for designation of new National Marine Sanctuaries, i.e., 30 months from the time a site is selected as an Active Candidate to a **Federal Register** notice of designation (or findings regarding why such notice has not been published).

The 1988 Amendments also specifically require (at section 304(a)) that a prospectus on the Stellwagen Bank proposal be submitted to Congress not later than September 30, 1990. Because a prospectus contains the information provided in a Draft Environmental Impact Statement/Management Plan document (DEIS/MP), NOAA must also develop the DEIS/MP for the Stellwagen Bank proposal by September 30, 1990. The order to meet both this deadline and the 30-month limit on formal consideration of new National Marine Sanctuaries, NOAA elevated the Stellwagen Bank site to Active Candidate status on April 19, 1989 (54 FR 15787).

Following the **Federal Register** notice announcing Stellwagen Bank as an Active Candidate for National Marine



Sanctuary designation, NOAA conducted four public scoping meetings during the week of June 12-16, 1989 at Provincetown, MA; Portsmouth, NH; Gloucester, MA; and Boston, MA. The purpose of the meetings was to gather information and comments from individuals, organizations, and government agencies on the range and significance of issues related to the Sanctuary proposal. Significant concerns were identified through this process regarding possible threats to the Stellwagen Bank environment from human activities. Natural resources at risk include the Stellwagen Bank feature itself, as well as important fisheries, marine mammals, and seabirds.

Before an area may be designated as a National Marine Sanctuary, section 303 of the Act (16 U.S.C. 1433) requires the Secretary to find:

(1) The area is of special national significance due to its resource or human-use values;

(2) Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a National Marine Sanctuary will facilitate coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Section 304 (16 U.S.C. 1434) requires the Secretary to issue in the *Federal Register* a notice of the proposal, proposed regulations, and a summary of the draft management plan.

The authority of the Secretary to designate National Marine Sanctuaries has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10-15, section 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83-38, Directive 05-50 (Sept. 21, 1983, as amended).

## II. Summary of Draft Environmental Impact Statement/Management Plan

The DEIS/MP for the proposed Stellwagen Bank National Marine Sanctuary sets forth the Sanctuary's location and provides details on the most important resources and uses of

the Sanctuary. The DEIS/MP describes the resource protection, research, education and interpretive programs, and details the specific activities to be taken in each program. The DEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities. The goals and objectives for the proposed Sanctuary are:

### *Resource Protection*

The highest priority management goal is to protect the marine environment, resources and qualities of the proposed Sanctuary. The specific objectives of protection efforts are to:

(1) Coordinate policies and procedures among the agencies sharing responsibility for protection and management of resources;

(2) Encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (e.g., monitoring and emergency-response programs);

(3) Develop an effective and coordinated program for the enforcement of Sanctuary regulations;

(4) Enforce Sanctuary regulations in addition to other regulations already in place;

(5) Promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives, through an educational/interpretive program stressing resource sensitivity and wise use;

(6) Ensure that the water quality of Stellwagen Bank is maintained at a level consonant with Sanctuary Designation;

(7) Establish cooperative agreements and other mechanisms for coordination among all the agencies participating in Sanctuary management;

(8) Ensure that the appropriate management agency incorporates research results and scientific data into effective resource protection strategies; and

(9) Reduce threats to Sanctuary resources.

### *Research Program*

Effective management of the proposed Sanctuary requires the initiation of a sanctuary research program. The purpose of Sanctuary research activities is to improve understanding of the Stellwagen Bank area environment, resources and qualities, and to resolve specific management problems. Research results will be used in interpretive programs for visitors and others interested in the Sanctuary, as well as for protection and management of resources and qualities.

Specific objectives for the research program are to:

(1) Establish a framework and procedures for administering research to ensure that research projects are responsive to management concerns and that results contribute to improved management of the Sanctuary;

(2) Incorporate research results into the interpretive/education program in a format useful for the general public;

(3) Focus and coordinate data collection efforts on the physical, chemical, geological and biological oceanography of the Sanctuary;

(4) Encourage studies that integrate research from the variety of coastal habitats with nearshore and open ocean processes;

(5) Initiate a monitoring program to assess environmental changes as they occur due to natural and human processes;

(6) Identify the range of effects on the environment that would result from predicted changes in human activity or natural phenomena; and

(7) Encourage information exchange among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management.

### *Education*

The goal for education programs is to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources and qualities.

The management objectives designed to meet this goal are to:

(1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources and qualities wisely to ensure their long-term viability;

(2) Broaden support for the Sanctuary management by offering programs suited to visitors with a range of diverse interests;

(3) Provide for public involvement by encouraging feedback on the effectiveness of education programs;

(4) Collaborate with Sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and

(5) Collaborate with other organizations to provide educational services complementary to the Sanctuary program.

### *Visitor Use*

The Sanctuary goal for visitor management is to facilitate, to the extent compatible with the primary objective of resource protection, public



and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives are to:

- (1) Provide relevant information about Sanctuary regulations, use policies and standards;
- (2) Collaborate with public and private organizations in promoting compatible uses of the Sanctuary;
- (3) Encourage the public who use the Sanctuary to respect sensitive Sanctuary resources and qualities; and
- (4) Monitor and assess the current levels of use to identify and control potential degradation of resources and qualities and minimize potential user conflicts.

### III. Proposed Designation Document

Section 304(a)(4) of the Act requires that the proposed designation document include the geographic area proposed to be included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value; and the types of activities that will be subject to regulation by the Secretary to protect these characteristics. This section also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus the terms of designation serve as a constitution for the Sanctuary.

#### *Proposed Designation Document for the Stellwagen Bank National Marine Sanctuary*

Under the authority of title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (the "Act"), 16 U.S.C. 1431 *et seq.*, Stellwagen Bank and its surrounding waters offshore Massachusetts, and the submerged lands under Stellwagen Bank and its surrounding waters, as described in article II, are hereby designated as a National Marine Sanctuary for the purposes of providing long-term protection and management of the conservation, ecological, recreational, research, educational, historical, and esthetic resources and qualities of the area.

#### Article I. Effect of Designation

The Act authorizes the issuance of such final regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational, and esthetic resources and qualities of the Stellwagen Bank National Marine

Sanctuary (the "Sanctuary"); Section 1 of article IV of this Designation Document lists those activities that may have to be regulated on the effect date of designation, or at some later date in order to protect Sanctuary resources and qualities. Thus, the act of designation will empower the Secretary of Commerce to regulate the activities listed in section 1. Listing does not necessarily mean that an activity will be regulated; however, if an activity is not listed it may not be regulated, except on an emergency basis, unless section 1 of article IV is amended by the same procedures by which the original Sanctuary designation was made.

#### Article II: Description of the Area

The Sanctuary boundaries encompass a total of approximately 453 square nautical miles (approximately 521 square miles) of ocean waters, and the submerged lands thereunder, over and surrounding the submerged Stellwagen Bank, offshore the Commonwealth of Massachusetts. The boundary forms an approximately rectangular area around the entirety of the Bank feature, except for the southern border, which coincides with the seaward limit of Commonwealth of Massachusetts jurisdictional waters, and follows an arc formed by that limit as it occurs along the northern end of Cape Cod. The western border of the Stellwagen Bank Sanctuary is located approximately 30 nautical miles east of Boston, Massachusetts. Portions of the Sanctuary's southern borders are contiguous to two Commonwealth-designated marine protected areas, the Cape Cod Bay Ocean Sanctuary, and the Cape Cod Ocean Sanctuary. The precise boundaries are set forth in appendix I to this designation document.

#### Article III: Characteristics of the Area That Gives It Particular Value

Stellwagen Bank is a glacially-deposited, primarily sandy feature measuring nearly twenty miles in length, occurring in a roughly southeast-to-northwest direction between Cape Cod and Cape Ann, Massachusetts. It is located at the extreme southwestern corner of the Gulf of Maine, and forms a partial "gateway" to Cape Cod Bay, situated shoreward to the southwest.

The presence of the Bank feature contributes to a particular combination of physical and oceanographic characteristics which results in two distinct peak productivity periods annually, when overturn and mixing of coastal waters with nutrient-rich waters from deeper strata produce a complex system of overlapping midwater and benthic habitats. From the time of

Colonial settlement, this area has provided an abundant and varied array of fisheries, which continue at the time of designation to provide livelihoods for an active commercial fleet. Important fisheries include bluefin tuna, herring, cod, haddock, winter and summer flounder, silver hake, pollack, ocean pout, lobster, shrimp, surf clam, and sea scallop. The commercial value of fish caught within the Sanctuary waters exceeded \$14 million in 1989.

The biological productivity of the Bank also attracts a seasonal variety of large and small cetaceans, several of which are classified as endangered species. In particular, the Stellwagen Bank environment provides feeding and nursery areas for humpback, fin, and northern right whales, the latter being the most critically-endangered of all large cetacean species. The annual appearance of 100 or more right whales from a total North Atlantic population estimated in 1990 at approximately 300 to 350, indicates the importance of the Bank to this species. The predictable, seasonable presence of these and other cetacean species has generated a growing commercial whalewatch industry, involving more than 40 vessels, (over 1.5 million passengers), and producing revenues in excess of \$17 million in 1988.

A vessel traffic separation scheme (VTSS) crosses directly over Stellwagen Bank, and accommodates approximately 2,700 commercial vessels annually in and out of Boston, Massachusetts. Existing or potential additional human activities involving the Stellwagen Bank environment include dredged materials disposal; sand and gravel extraction; offshore aquaculture development; and offshore fixed artificial platform construction.

The uniqueness of the Stellwagen Bank environment as well as its accessibility draws the continuing interest of area scientific institutions, including the Center for Coastal Studies, Cetacean Research Unit, University of Massachusetts, Woods Hole Oceanographic Institution, Marine Biological Laboratory, Manomet Bird Observatory, New England Aquarium, University of Rhode Island, and the National Marine Fisheries Service (NOAA). In light of the increasing levels of human activities, several topics, such as: Interactions between marine mammals and commercial/recreational vessels; immediate, long-term and cumulative impacts on marine mammals from whale-watching vessel activity; and the immediate, long-term, and cumulative effects of discharge/disposal operations on the Bank's resources and



qualities require coordinated and comprehensive monitoring and research.

#### Article IV. Scope of Regulations

**Section 1. Activities Subject to Regulation.** The following activities are subject to regulation, including prohibition, to the extent necessary and reasonable to ensure the protection and management of the conservation, recreational, ecological, historical, research, educational, or esthetic resources and qualities of the area:

- a. Discharging or depositing, from within the boundaries of the Sanctuary, any material or substance;
- b. Discharging or depositing, from beyond the boundaries of the Sanctuary, any material or substance;
- c. Exploring for, developing, or producing clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value ("industrial materials") in the Sanctuary;
- d. Drilling or digging into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure or material on the seabed of the Sanctuary;
- e. Moving, possessing, injuring, or attempting to move, possess, or injure, a Sanctuary historical resource;
- f. Taking any marine reptile, marine mammal, or seabird in or above the Sanctuary; except in accordance with and as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA);
- g. Exploring for, developing, or producing oil or gas in the Sanctuary; and
- h. Operation of commercial (other than fishing) vessels.

**Section 2. Consistency With International Law.** The regulations governing the activities listed in section 1 of this Article shall apply to United States-flag vessels and to persons who are citizens, nationals, or resident aliens of the United States, and shall apply to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

**Section 3. Emergencies.** Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality; or minimize the imminent risk of such destruction, loss, or injury, any activity, including those not listed in section 1, is subject to immediate temporary regulation.

#### Article V. Defense or Law Enforcement Activities

No prohibition set forth in the Sanctuary regulations shall apply to activities that are necessary for national defense or law enforcement. Whenever an activity necessary for the national defense or law enforcement would violate a prohibition set forth in these Sanctuary regulations were it not necessary for the national defense or law enforcement, the head of the agency taking the action, or his or her designate, shall notify the Secretary of Commerce or his or her designate of the proposed activity, if there is sufficient time to permit consultation without jeopardizing national defense or law enforcement. Such notification shall be sufficiently in advance of undertaking the activity in order to enable consultations as to how the activity could be conducted to minimize any adverse impact on Sanctuary resources and qualities without compromising national defense or law enforcement. Activities that are not necessary for the national defense, such as training exercises and routine vessel operations, are subject to all prohibitions contained in the Sanctuary regulations.

#### Article VI. Effect on Other Regulations, Leases, Permits, Licenses, and Rights

**Section 1. Fishing Regulations, Licenses, and Permits.** Fishing in the Sanctuary, including fishing for shellfish and invertebrates, shall not be regulated as part of the Sanctuary management regime authorized by the Act. However, fishing in the Sanctuary may be regulated other than under the Act by Federal and State authorities of competent jurisdiction, and designation of the Sanctuary shall have no effect on any regulation, permit, or license issued thereunder, e.g., regulations implementing Fishery Management Plans promulgated under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

**Section 2. Other.** If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, or his or her designate to be more protective of Sanctuary resources and qualities shall govern.

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. 1434(c)(1), no valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent

jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce, or his or her designate, as a result of this designation, or as a result of any Sanctuary regulation, if such lease, permit, license, approval, or other authorization, or right of subsistence use or access was issued or in existence as of the effective date of this designation. However, the Secretary of Commerce, or his or her designate, may regulate the exercise of such authorization or right consistent with the purposes for which the Sanctuary is designated.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued as of the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, or to any right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the owner or holder of such authorization or right notifies the Secretary or his or her designate of the existence of such authorization or right, and requests certification in accordance with the Sanctuary regulations, if the exercise of such authorization or right would otherwise violate a prohibition set forth in the Sanctuary regulations, and complies with any terms and conditions on the exercise of such authorization or right imposed by the Secretary or his or her designate, as he or she deems necessary to achieve the purposes for which the Sanctuary was designated. Pending the imposition of terms and conditions by the Secretary or his or her designate, such owner or holder may exercise any such authorization or right without being in violation of any prohibitions set forth in the Sanctuary regulations.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, if the Secretary or his or her designate was notified of the application for such authorization by the applicant in accordance with the Sanctuary regulations, and the Secretary or his or her designate has certified his or her authorization of such application, and such authorization contains, and the owner or holder complies with, such terms and conditions as the Secretary or his or her designate deems appropriate to protect Sanctuary resources or qualities.



The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by a National Marine Sanctuary permit issued by the Secretary or his or her designate in accordance with the Sanctuary regulations. Such permits shall only be issued if the Secretary or his or her designate finds that the activity for which the permit is applied will: further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with an air or marine casualty; assist in managing the Sanctuary; have only negligible, short-term adverse effects on Sanctuary resources or qualities; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the Commonwealth of Massachusetts.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by a special use permit issued by the Secretary or his or her designate, in accordance with section 310 of the Act.

If the Sanctuary regulations prohibit the exploration, development, or production of oil, gas, or industrial materials, the Secretary or his or her designate may in no event permit or otherwise approve such activities in the Sanctuary, and any leases, licenses, permits, approvals, or other authorizations issued after the effective date of Sanctuary designation authorizing the exploration, development or production of oil, gas, or industrial materials in the Sanctuary shall be invalid.

#### Article VII. Alteration of This Designation

The terms of designation may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, State, regional, and local agencies, review by the appropriate Congressional committees, and the Governor of the Commonwealth of Massachusetts, and approval by the Secretary of Commerce, or his or her designate.

#### Appendix I. Proposed Stellwagen Bank National Marine Sanctuary Boundary Coordinates

(Appendix I will set forth the precise boundaries based on the comments received on the DEIS/MP).

End of the Proposed Designation Document.

#### IV. Summary of Proposed Regulations

The proposed regulations would set forth the boundaries of the proposed Sanctuary, prohibit a relatively narrow range of activities, establish procedures for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, establish certification procedures for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity, establish notification and review procedures for applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity, set forth the maximum per-day penalties for violating Sanctuary regulations, and establish procedures for administrative appeals.

Specifically, the proposed regulations would add a new part 940 to title 15, Code of Federal Regulations.

Proposed § 940.1 would set forth as the purpose of the regulations to implement the designation of the Stellwagen Bank National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical and aesthetic resources and qualities of the area.

Proposed § 940.2 and proposed appendix I following proposed § 940.11 would set forth the boundaries of the Sanctuary.

Proposed § 940.3 would define various terms used in the regulations. Other terms appearing in the proposed regulations are defined at 15 CFR 922.2, and/or in the Marine Protection, Research and Sanctuaries Act, as amended (33 U.S.C. 1401-1445, and 16 U.S.C. 1431-1439).

Proposed § 940.4 would allow all activities except those prohibited by § 940.5 to be undertaken subject to any emergency regulation promulgated pursuant to § 940.6 and all prohibitions, restrictions, and conditions validly imposed by any other authority of competent jurisdiction.

If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation more protective of Sanctuary resources and qualities would govern.

Proposed § 940.5 would prohibit a variety of activities and thus make it unlawful to conduct them. However, any of the prohibited activities could be conducted lawfully if:

(1) Necessary for national defense or law enforcement; necessary to respond

to an emergency threatening life, property, or the environment; pursuant to a National Marine Sanctuary permit issued under proposed § 940.8;

(2) Pursuant to a certification by the Director of the Office of Ocean and Coastal Resources Management under proposed § 940.9 of a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction as of (or if conducted pursuant to any valid right of subsistence use or access; in existence as of) the effective date of this designation subject to complying with any terms and conditions imposed by the Director as he or she deems necessary to achieve the purposes for which the Sanctuary was designated; or

(3) Pursuant to a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction after the effective date of Sanctuary designation, provided that the Director was notified of the application in accordance with the requirements of proposed § 940.10 and the Director did not object to the issuance of such authorization, and such authorization contains, and the owner or holder complies with, such terms and conditions as the Director deems necessary to protect Sanctuary resources and qualities.

The prohibitions would apply to United States-flag vessels and to persons who are citizens, nationals or resident aliens of the United States and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

The first activity prohibited would be discharging or depositing, from within the boundaries of the Sanctuary, any material or other matter of any kind, except or: (a) Fish, fish parts, chumming materials or bait used in or resulting from normal fishing operations in the Sanctuary; (b) biodegradable effluent incidental to vessel use generated by marine sanitation devices approved by the U.S. Coast Guard; (c) water generated by routine vessel operations (e.g., cooling water and deck washdown) excluding bilge pumping; or (d) engine exhaust. This prohibition is necessary in order to protect the Sanctuary resources and qualities from the effects of pollutants deposited or discharged into the Sanctuary.

The second activity prohibited would be discharging or depositing, from beyond the boundaries of the Sanctuary,



material or other matter, except for the exclusions discussed above for the first activity, that subsequently enter the Sanctuary and injure a Sanctuary resource, or Sanctuary quality. The intent of this prohibition is to protect the Sanctuary resources from the harmful effects of land and sea-generated non-point and point source pollution.

The third activity prohibited would be exploring for, developing, or producing industrial materials in the Sanctuary. The intent of this regulation is to protect the Sanctuary resources from the harmful effects of exploring for, developing, or producing industrial materials.

The fourth activity prohibited would be drilling or digging into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure or material on the seabed of the Sanctuary. This prohibition does not apply if any of the above results from: Anchoring vessels; normal fishing operations; or installation of navigational aids. The intent of this regulation is to protect the resources of the Sanctuary from the harmful effects of activities such as, but not limited to, excavations from archeological purposes, drilling into the seabed, strip mining, ocean mineral extraction and dumping of dredged materials.

The fifth activity prohibited would be moving, possessing, injuring or attempting to move, possess, or injure a Sanctuary historical resource. Historical resources in the marine environment are fragile, finite and non-renewable. This prohibition is designed to protect these resources so that they may be researched, and information about their contents and type may be made available for the benefit of the public.

The sixth and final activity prohibited is taking any marine reptile, marine mammal, or seabird in or above the Sanctuary, except in accordance with and as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). The proposed prohibition would overlap slightly with the MMPA and ESA, but would also extend protection for Sanctuary resources on an environmentally holistic basis.

Proposed § 940.6 would authorize the regulation, including prohibition, on a temporary basis of any activity where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury.

Proposed § 940.7 would set forth the maximum statutory civil penalty per day for conducting a prohibited activity—

\$50,000. Each day of a continuing violation would constitute a separate violation.

Regulations setting forth the administrative procedures governing the assessment of civil penalties, enforcement hearings and appeals, permit sanctions and denials for enforcement reasons, and the issuance of written warnings are governed by part 904, title 15, Code of Federal Regulations.

Proposed § 940.8 would set forth the procedures for applying for a National Marine Sanctuary permit to conduct an otherwise prohibited activity and the criteria governing the issuance, denial, amendment, suspension, and revocation of such permits. Permits would be granted by the Director of the Office for Ocean and Coastal Resource Management if he or she finds that the activity will: further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with an air or marine casualty; assist in the management of the Sanctuary; have only negligible, short-term adverse effects on Sanctuary resources and qualities. In deciding whether to issue a permit, the Director may consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity, the duration of the activity and its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity, the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the end value of the applicant's activity, and such other matters as the Director deems appropriate.

Proposed § 940.9 would set forth procedures for requesting certification of leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct an activity otherwise prohibited under § 940.5(a) issued or in existence as of the date of Sanctuary designation. Pursuant to § 940.5(f), the prohibitions in § 940.5(a) do not apply to any activity authorized by a valid lease, permit, license, approval, or other authorization issued as of the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, or to any right of subsistence use or access in existence as of the effective date of Sanctuary designation, provided that the owner or holder of such lease, permit, license, approval, other authorization, or right notifies the Director of the existence of such lease,

permit, license, approval, other authorization, or right in accordance with the requirements of section 944.8 and requests certification of such lease, permit, license, approval, other authorization, or right, and provided that the owner or holder complies with any terms or conditions on the exercise of such lease, permit, license, approval, other authorization, or right imposed by the Director as he or she deems appropriate to achieve the purposes for which the Sanctuary was designated.

Proposed § 940.9 would allow the owner or holder 90 days from the effective date of Sanctuary designation to request certification. The owner or holder would be allowed to conduct the activity without being in violation of § 940.5(a) pending final agency action on a timely certification request.

The Director would be required to certify such lease, permit, license, approval, other authorization, or right within 120 days or receipt of a request for certification, unless: if within 30 days of receipt of a request for certification, the Director has requested additional information, the owner or holder shall then have 30 days from receipt of the request to supply the requested additional information. From the date of the receipt of the additional information or data the Director would have either: 120 days to certify such lease, permit, license, approval, other authorization, or right; or 60 days to publish a notice in the *Federal Register* of the intent to hold a public hearing on the request for certification. A hearing shall then be held within 30 days of the publication of the notice to hold a public hearing and a decision on the certification will be made 60 days from the close of the public hearing.

As a condition of certification, the Director would impose such terms and conditions on the exercise of such lease, permit, license, approval, other authorization, or right as he or she deems necessary to achieve the purposes for which the Sanctuary was designated. This is consistent with the Secretary's authority under section 304(c)(2) of the Act.

Either the owner or holder or the issuing agency may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedure provided for in § 940.11.

Proposed § 940.10 would state that consistent with § 940.5(g), the prohibitions of § 940.5(a) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any



Federal, State, or local authority of competent jurisdiction, provided that the Director is notified of the application for such lease, license, permit, approval or other authorization within fifteen days of the date of application or of the effective date of Sanctuary designation, whichever is later, and that the Director does not object to the issuance of such lease, license, permit, or authorization, and provided that such lease, license, permit, or authorization contains, and the owner or holder complies with, such terms and conditions as the Director deems necessary to protect Sanctuary resources and qualities.

Any person applying for a permit, license, approval or other authorization from any Federal, State, or local authority to conduct an activity that would be prohibited under § 940.5(a) would be required to notify the Director, in writing, within 15 days of the date of application or of the effective date of Sanctuary designation, whichever is later, of the filing of the application.

The Director would be required to notify the agency to which application has been made within the time period allowed for comment on the application of whether he or she has an objection to issuance or what terms and conditions such license, permit, approval, or other authorization must contain in order to protect Sanctuary resource and qualities.

Either the applicant or the issuing agency may appeal any objection by, or terms or conditions imposed by, the Director to the Assistant Administrator or designate in accordance with the procedures set forth in § 940.11.

Proposed § 940.11 would set forth the procedures for appealing to the Assistant Administrator or designate actions of the Director with respect to: (1) The grant, conditioning, amendment, denial, suspension or revocation of a permit under § 940.8; (2) the conditioning, amendment, suspension or revocation of a certification under § 940.9; or (3) the objection to issuance or the imposition of terms and conditions under § 940.10.

Thus, the regulatory regime that the proposed regulations would establish provides for multiple uses of the Gulf of Maine while at the same time providing for the protection of Sanctuary resources and qualities.

Prior to conditioning existing or future leases, permits, licenses, approvals, other authorizations, or rights NOAA intends to consult with relevant issuing agencies as well as owners, holders or applicants. NOAA's policy is to encourage best available management practices to minimize non-point source pollution entering the Sanctuary and to

require at a minimum secondary treatment and preferably tertiary treatment for point source pollution, such as municipal sewage discharge.

#### V. Miscellaneous Rulemaking Requirements

##### *Marine Protection, Research, and Sanctuaries Act*

Section 304 of the Act requires the Secretary to submit to the Committee on Merchant Marine and Fisheries of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, on the same day as this notice is published, a prospectus on the proposal, which must contain, among other things, the terms of the proposed designation, the proposed regulations, a draft management plan detailing the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the area, and a draft environmental impact statement. In accordance with section 304, the required prospectus is being submitted to the specified Congressional Committees.

##### *Executive Order 12291*

Under Executive Order 12291, the Department must judge whether the regulations proposed in this notice are "major" within the meaning of section 1 of the Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Administrator of NOAA has determined that the regulations proposed in this notice are not major because, if adopted, they are not likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

##### *Regulatory Flexibility Act*

The regulations proposed in this notice would allow all activities to be conducted in the proposed Sanctuary other than a relatively narrow range of prohibited activities. The procedures proposed in these regulations for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, for requesting certifications for existing leases, licenses, permits, approvals, other authorizations or rights

authorizing the conduct of a prohibited activity, and for notifying NOAA of applications for licenses, permits, approvals, or other authorizations to conduct a prohibited activity would all act to lessen any adverse economic effect on small entities. The proposed regulations, in total, if adopted in final form as proposed, are not expected to have a significant economic impact on a substantial number of small entities, and the General Counsel of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, an initial Regulatory Flexibility Analysis was not prepared.

##### *Paperwork Reduction Act*

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act (Pub. L. 96-511). The collection of information requirement applies to persons seeking permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the management goals for the Sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to average 1.83 hours annually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public on the collection of information requirement are specifically invited and should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530 (Attn: Paperwork Reduction Act Project 0648-XXXX); and to Richard Roberts, room 724, 6010 Executive Boulevard, Rockville, MD 20852.

##### *Executive Order 12612*

A Federalism Assessment (FA) was proposed for the proposed designation, draft management plan, and proposed implementing regulations. The FA concluded that all were fully consistent with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in Policy Formulation and Implementation (52 FR 41685, Oct. 26, 1987). Copies of the FA are available upon request to the Office



of Ocean and Coastal Resource Management at the address listed above.

#### *National Environmental Policy Act*

In accordance with section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)) and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(a)), a Draft Environmental Impact Statement (DEIS) has been prepared for the proposed designation and the proposed regulations. As required by section 304(a)(2), the DEIS includes the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1433(b)(3)), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area. Copies of the DEIS are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

#### *Executive Order 12630*

This proposed rule, if issued in final form as proposed, would not have any takings implications within the meaning of Executive Order 12630 because it would not appear to have an effect on private property sufficiently severe as to effectively deny economically viable use of any distinct legally potential property interest to its owner or to have the effect of, or result in, a permanent or temporary physical occupation, invasion, or deprivation.

#### **List of Subjects in 15 CFR Part 940**

Administrative practices and procedure, Coastal zone, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: January 31, 1991.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR chapter IX is proposed to be amended as set forth below.

A new part 940 is added to subchapter B (as proposed at 55 FR 31793, August 3, 1990) to read as follows:

#### **PART 940—STELLWAGEN BANK NATIONAL MARINE SANCTUARY**

Sec.

- 940.1 Purpose.
- 940.2 Boundaries.
- 940.3 Definitions.
- 940.4 Allowed activities.

Sec.

- 940.5 Prohibited activities.
- 940.6 Emergency regulations.
- 940.7 Penalties.
- 940.8 National Marine Sanctuary permits—Application procedures and issuance criteria.
- 940.9 Certification of leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity issued or in existence on the effective date of Sanctuary designation.
- 940.10 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.
- 940.11 Appeals of administrative action.

#### **Appendix I to Part 940—Stellwagen Bank National Marine Sanctuary Boundary Coordinates**

Authority: Sections 302, 303, 304, 305, 307 and 310 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*

#### **§ 940.1 Purpose.**

The purpose of the regulations in this part is to implement the designation of the Stellwagen Bank National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical, cultural, and aesthetic resources and qualities of the area.

#### **§ 940.2 Boundaries.**

The Stellwagen Bank National Marine Sanctuary consists of an area of approximately 453 square nautical miles of Federal marine waters and the submerged lands thereunder, over and around Stellwagen Bank, off the coast of Massachusetts. The boundary forms an approximately rectangular area around the submerged Bank feature, the northeast and northwest points of which are marked by the following coordinates, respectively: 42°36'00.10"N x 70°13'56.46"W and 42°30'49.14"N x 70°34'55.72"W. The Sanctuary's eastern and western boundaries extend in a south-southeast direction from these points to coincide with the northern limits of Commonwealth waters off the northernmost land mass of Cape Cod. The Sanctuary's southern boundary follows an approximately west-to-east line, until the boundary reaches an offshore point three miles from the mean high tide point at Race Point, at the northernmost point of land on Cape Cod. At that point, the Sanctuary's southern boundary curves in a line contiguous with the three-mile jurisdictional boundary of Massachusetts around the northern Cape Cod land mass. The southeast and southwest corners are marked by the

following coordinates, respectively: 42°06'29.53"N x 70°04'03.36"W, and 42°07'44.89"N x 70°28'15.44"W. The precise boundaries of the Sanctuary appears in appendix I to this part.

#### **§ 940.3 Definitions.**

(a) *Act* means title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.*).

(b) *Administrator* or *Under Secretary* means the Administrator of the National Oceanic and Atmospheric Administration/Under Secretary of Commerce for Oceans and Atmosphere.

(c) *Assistant Administrator* means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

(d) *Director* means the Director of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

(e) *Commercial vessel* means any vessel engaged in the trade of carrying cargo, including but not limited to tankers and other bulk carriers and barges; vessels used in seismic surveys; and vessels engaged in the trade of servicing offshore installations.

(f) *Effective date of Sanctuary designation* means the date the regulations implementing the designation of the Sanctuary become effective.

(g) *Historical resource* means a resource possessing historical, cultural, archaeological, or paleontological significance, including sites, structures, districts, and objects significantly associated with or representative of earlier people, cultures, and human activities and events.

(h) *Industrial material* means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or other matter of commercial value.

(i) *Injure* means to change adversely, either in the long or the short term, a chemical, biological, or physical attribute of, or the viability of, a Sanctuary resource.

(j) *Person* means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency, or instrumentality of the Federal Government or of any State, regional, or local unit of government, or any foreign government.

(k) *Sanctuary* means the Stellwagen Bank National Marine Sanctuary.

(l) *Sanctuary quality* means a particular and essential characteristic of



the Sanctuary, including but not limited to water quality and air quality.

(m) *Sanctuary resource* means any living or nonliving resource of the Sanctuary that contributes to its conservation, recreational, ecological, historical, research, educational or aesthetic value, including, but not limited to, the substratum of the Stellwagen Bank and the surrounding seabed, phytoplankton, zooplankton, invertebrates, fish, marine reptiles, marine mammals, seabirds, and historical resources.

(n) *Taking any marine reptile, marine mammal, or seabird* means harassing, injuring, hunting, capturing, collecting, or killing, or attempting to harass, injure, hunt, capture, collect, or kill, any marine reptile, marine mammal, or seabird, including, but not limited to, any of the following activities: collecting dead or injured marine reptiles, marine mammals, or seabirds, or parts thereof, restraining, or detaining any marine reptile, marine mammal, or seabird, or parts thereof, no matter how temporarily, tagging a marine reptile, marine mammal, or seabird, operating a vessel or aircraft or doing any other act that results in the disturbing or molesting of marine reptiles, marine mammals, or seabirds.

(o) *Vessel* means watercraft of any description capable of being used as a means of transportation in the waters of the Sanctuary.

(p) Other terms appearing in the regulations in this Part are defined at 15 CFR 922.2, and/or in the Marine Protection, Research and Sanctuaries Act, as amended (33 U.S.C. 1401-1445 and 16 U.S.C. 1431-1439).

#### § 940.4 Allowed activities.

All activities except those prohibited by § 940.5 may be undertaken subject to any emergency regulation promulgated pursuant to § 940.6 and all prohibitions, restrictions, and conditions validly imposed by any other authority of competent jurisdiction. If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation more protective of Sanctuary resources and qualities shall govern.

#### § 940.5 Prohibited activities.

(a) Except as specified in paragraphs (c) through (g) of this section, the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted:

(1) Discharging or depositing, from within the boundaries of the Sanctuary, any material or substance, except for:

(i) Fish, fish parts, chumming materials or bait used in or resulting from normal fishing operations in the Sanctuary;

(ii) Biodegradable effluent incidental to vessel use generated by marine sanitation devices approved by the U.S. Coast Guard;

(iii) Water generated by routine vessel operations (e.g., cooling water and deck washdown) excluding bilge pumping; or

(iv) Engine exhaust;

(2) Discharging or depositing, from beyond the boundaries of the Sanctuary, any material or substance, other than those listed in paragraphs (a)(1)(i) through (a)(1)(iv) of this section, that subsequently enters the Sanctuary and injures a Sanctuary resource or Sanctuary quality;

(3) Exploring for, developing, or producing industrial materials in the Sanctuary;

(4) Drilling or digging into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure or material on the seabed of the Sanctuary. This prohibition does not apply if any of the above results from: anchoring vessels; normal fishing operations; or installation of navigation aids;

(5) Moving, possessing, injuring, or attempting to move, possess, or injure, a Sanctuary historical resource. This prohibition does not apply to accidental moving, possession or injury occurring during fishing operations; and

(6) Taking any marine reptile, marine mammal, or seabird in or above the Sanctuary, except in accordance with and as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

(b) The prohibitions in paragraph (a) of this section apply to United States-flag vessels and to persons who are citizens, nationals or resident aliens of the United States; and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

(c) The prohibitions in paragraph (a) of this section do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

(d) The prohibitions in paragraph (a) of this section do not apply to activities necessary for national defense or law enforcement. Whenever an activity necessary for national defense or law enforcement would violate a prohibition

set forth in the Sanctuary regulations were it not necessary for national defense or law enforcement, the head of the agency taking the action shall notify the Secretary of Commerce or designate of the proposed activity, if there is sufficient time to permit consultation without jeopardizing national defense or law enforcement. Such notification shall be sufficiently in advance of undertaking the activity in order to enable consultations as to how the activity could be conducted to minimize any adverse impact on Sanctuary resources and qualities without compromising national defense or law enforcement. Activities that are not necessary for national defense or law enforcement, such as training exercises and routine vessel operations, are subject to all prohibitions contained in the Sanctuary regulations.

(e) The prohibitions in paragraph (a) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a permit issued pursuant to § 940.8, or issued pursuant to section 310 of the Act.

(f) The prohibitions in paragraph (a) of this section do not apply to any activity authorized by a valid lease, permit, license, approval, right or other authorization in existence on the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the owner or holder of such authorization or right notifies the Director of the existence of such authorization or right in accordance with the requirements of § 940.9, and requests certification of such authorization or right, and provided that the owner or holder complies with any terms and conditions on the exercise of such authorization or right imposed by the Director as he or she deems appropriate to achieve the purposes for which the Sanctuary was designated.

(g) The prohibitions in paragraph (a) of this section do not apply to any activity authorized by any lease, permit, license, approval, right, or other authorization issued after the effective date of Sanctuary designation, if the Director was notified of the application for such authorization by the applicant in accordance with the requirements of § 940.10, and the Director did not object to the issuance of such authorization, and such authorization contains, and the owner or holder complies with, such terms and conditions as the Director



deems necessary to protect Sanctuary resources and qualities.

(h) Notwithstanding paragraphs (e), (f), and (g) of this section, in no event may the Director issue a permit under § 940.8, or under section 310 of the Act, authorizing the exploration for, extraction of, or development or production of industrial materials in the Sanctuary, and any leases, licenses, permits, approvals, or other authorizations authorizing the exploration, extraction, development, or production of industrial materials in the Sanctuary issued after the effective date of Sanctuary designation shall be invalid.

#### § 940.6 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or to minimize the imminent risk of such destruction, loss or injury, any and all activities, are subject to immediate temporary regulation.

#### § 940.7 Penalties.

(a) Each violation of the Act, any regulation in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$50,000. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the administrative procedures governing the assessment of civil penalties, enforcement hearings and appeals, permit sanctions and denials for enforcement reasons, and the issuance of written warnings are set forth in 15 CFR part 904.

#### § 940.8 National Marine Sanctuary Permits—Application procedures and issuance criteria.

(a) A person may conduct an activity otherwise prohibited by § 940.5(a) if such activity is conducted in accordance with the scope, purpose, manner, terms, and conditions authorized by a permit issued under this section.

(b) Applications for such permits should be addressed to the Director of the Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Washington, DC 20235. An application must include a detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel, and methodology to be employed. The qualifications and experience of all personnel must be set

forth in the application. The application must set forth the potential effects of the activity, if any, on Sanctuary resources and Sanctuary qualities. Copies of all other required licenses, permits, approvals, or other authorizations must be attached.

(c) Upon receipt of an application, the Director or designee, at his or her discretion, may request such additional information from the applicant as he or she deems necessary to act on the application; may seek the views of any persons; and may hold a public hearing.

(d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity otherwise prohibited by § 940.5(a)(1)–(a)(6), if the Director finds that the activity will: Further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; have only negligible, short-term adverse effects on Sanctuary resources and Sanctuary qualities; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the Commonwealth of Massachusetts. In deciding whether to issue a permit, the Director may also consider such factors as: the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and its immediate, long-term, and cumulative effects on Sanctuary resources, and Sanctuary qualities; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance the purposes for which the Sanctuary was designated; and the value of the applicant's activity; and such other factors as the Director deems appropriate.

(e) A permit issued pursuant to this section is nontransferable.

(f) The Director may amend, suspend, or revoke a permit issued pursuant to this section or deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee has acted in violation of the terms of the permit or of these regulations or for other good cause. Any such action shall be communicated in writing to the permittee or applicant and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for

enforcement reasons are set forth in subpart D of 15 CFR part 904.

(g) It shall be a condition of any permit issued that the permit or a copy thereof be displayed on board all vessels or aircraft used in the conduct of the activity.

#### § 940.9 Certification of leases, licenses, permits approvals, other authorizations, or rights to conduct a prohibited activity issued or in existence on the effective date of Sanctuary designation.

(a) The prohibitions in § 940.5(a) do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the owner or holder of such authorization or right notifies the Director, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right and simultaneously requests certification of such authorization or right, provided that the owner or holder complies with any terms and conditions on the exercise of such authorization or right imposed, as a condition of certification, by the Director as appropriate to achieve the purposes for which the Sanctuary was designated.

(b) The owner or holder of a valid lease, permit, license, approval or other authorization in existence as of the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, or of any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, authorizing an activity otherwise prohibited by § 940.5(a) may conduct the activity without being in violation of § 940.5, pending final agency action on a timely certification request.

(c) Requests for certification should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resources Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Washington, DC 20235. A copy of the lease, permit, license, approval or other authorization must accompany the request.

(d) After receipt of a request for certification, the Director may either issue a decision within 120 days of receipt of the request or, within 30 days



of receipt of the request for certification may request additional information from the applicant as he or she deems necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The applicant then has 30 days to supply the requested information. Failure to supply the requested information within 30 days shall cause the applicant to be immediately subject to the prohibitions in § 940.5(a). The Director, at his or her discretion, may seek the views of any persons on the certification request. The Director, at his or her discretion, will then issue a decision within 120 days of receipt of the requested information or may, within 60 days of receipt of the requested information, issue a notice in the *Federal Register* of the intent to hold a public hearing. The public hearing will then be held within 30 days of the publication of the notice in the *Federal Register*. The Director will then have 60 days to make a decision from the close of such public hearing. As a condition of certification, the Director may impose such terms and conditions on the exercise of authorization or right as he or she deems necessary to achieve the purposes for which the Sanctuary was designated.

(e) Any certification called for in this section shall be presumed without the imposition of conditions or terms unless the Director acts on the certification request within 120 days of receipt thereof or, if the Director has requested additional information, within 120 days of receipt thereof, or 60 days from the close of any public hearing held.

(f) The Director may amend, suspend, or revoke any certification made under this section whenever the continued conduct of the activity would violate any terms or conditions of the certification. Any such action shall be communicated in writing to both the holder of the certified lease, permit, license, approval, other authorization or right, and the issuing agency, and shall set forth the reason(s) for the action taken.

(g) Either the holder, owner or the issuing agency may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedure provided for in § 940.11.

(h) Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right shall be subject to the provisions of § 940.10.

**§ 940.10 Notification and review of applications for lease, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.**

(a) The prohibitions set forth in § 940.5(a) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that the Director is notified of the application for authorization within fifteen (15) days of the date of application or of the effective date of Sanctuary designation, whichever is later, and that the Director or designate does not object to the issuance of such authorization, and that such authorization contains, and the owner or holder complies with, such terms and conditions as the Director deems necessary to protect Sanctuary resources and Sanctuary qualities.

(b) Any person applying for a lease, permit, license, approval or other authorization from any Federal, State, or local authority to conduct an activity that would be prohibited under § 940.5(a) must notify the Director in writing, within fifteen (15) days of the date of application or of the effective date of Sanctuary designation, whichever is later, of the filing of the application. Any applicant may request the Director to issue a finding as to whether an activity for which an application to any Federal, State, or local authority of competent jurisdiction for a lease, permit, license, approval, or other authorization is proposed to be made or has been made would be prohibited by § 940.5(a) unless the Director is notified and does not object to issuance.

(c) Notification of the filing of an application must be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the application must accompany the notification.

(d) Upon receipt of a notification, the Director may request such additional information from the applicant as he or she deems necessary to determine whether to object to issuance of such lease, license, permit, approval or other authorization, or what terms and conditions such authorization must contain in order to protect Sanctuary resources and Sanctuary qualities. The Director, at his or her discretion, may

seek the views of any persons and hold a public hearing on the application.

(e) The Director shall notify the agency to which application has been made within the time period allowed for comment on the application of whether he or she has an objection to issuance or what terms and conditions he or she determines such lease, license, permit, approval, or other authorization must contain in order to protect Sanctuary resources and Sanctuary qualities.

(f) If the Director fails to notify the agency to which application has been made within the time period allowed by that agency for comment on the application of his or her objection to issuance, or of the terms and conditions he or she has determined such lease, license, permit, approval, other authorization or right must contain, then his or her concurrence to issuance without terms or conditions to protect Sanctuary resources and Sanctuary qualities shall be presumed.

(g) The applicant may appeal any objection by, or terms or conditions imposed by, the Director, to the Assistant Administrator or designate in accordance with the procedure set forth in § 940.11.

**§ 940.11 Appeals of administrative action.**

(a) Except for permit actions taken for enforcement reasons (see subpart D of 15 CFR part 904 for applicable procedures), an applicant for a § 940.8 permit, a § 940.8 permittee, a § 940.9 certification requester, or a § 940.10 applicant (hereinafter appellant) may appeal to the Assistant Administrator or designate:

(1) The granting, continuing, amendment, denial, suspension, or revocation of a National Marine Sanctuary permit by the Director under § 940.8;

(2) The conditioning, amendment, or revocation of a certification under § 940.9; or

(3) The objection to issuance or the imposition of terms and conditions under § 940.10.

(b) An appeal under paragraph (a) of this section must be in writing; state the action(s) appealed and the reason(s) therefore; and be received within 30 days of the action(s) by the Director. Appeals must be addressed to the Assistant Administrator, Office of Ocean and Coastal Resource Management, Attn: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235.



(c) While the appeal is pending, appellants requesting certification pursuant to and otherwise in adherence with § 940.9 may continue to conduct their activities without being in violation of the prohibitions in § 940.5(a). All other appellants may not conduct their activities without being subject to the prohibitions in § 940.5(a).

(d) Within 30 days of receipt of an appeal, the Assistant Administrator or his or her designate may request the appellant or any person to submit such information as the Assistant Administrator or his or her designate deems necessary in order for him or her to decide the appeal. The appellant shall then have 30 days from receipt of the request for additional information from the Assistant Administrator or his or her designate to supply the additional information. The Assistant Administrator or his or her designate, at his or her discretion, may hold an informal hearing on the appeal. If the Assistant Administrator or his or her designate determines that an informal hearing should be held, he or she may designate an officer before whom the hearing shall be held. Notice of the time, place, and subject matter of the hearing shall be published in the **Federal Register** within 120 days after receipt of

the appeal. Such hearing shall be held no later than 30 days following publication of the notice in the **Federal Register**, unless the hearing officer extends the time for reasons he or she deems equitable. The appellant and the Director may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator or his or her designate.

(e) The Assistant Administrator or his or her designate shall decide the appeal based on the record before the Director and any further information submitted pursuant to a request to the Assistant Administrator or his or her designate, and the recommendation of the hearing officer if a hearing has been held. If a hearing has been held before a hearing officer, the Assistant Administrator or his or her designate may adopt the hearing officer's recommended decision, in whole or in part, or reject or modify it. In any event, if a hearing is held, the Assistant Administrator or his or her designate shall notify the appellant and other interested persons of his or her decision and the reason(s) therefore in

writing within 60 days of receipt of the recommended decision of the hearing officer. If an informal hearing is not held, the Assistant Administrator or his or her designate shall notify the appellant and other interested persons of the final decision and the reason(s) therefore in writing, normally within 60 days of the date of the receipt of adequate information to make the decision. The Assistant Administrator or his or her designate's decision shall constitute final agency action for the purposes of the Administrative Procedure Act.

(f) Any time limit prescribed in this section may be extended by the Assistant Administrator or his or her designate for good cause for a period not to exceed 30 days, either upon his or her own initiative, or upon written request from the appellant stating the reason(s) therefore.

#### **Appendix I to Part 940—Stellwagen Bank National Marine Sanctuary Boundary Coordinates**

**Note:** Appendix I will set forth the precise boundaries based on the comments received on the DEIS/MP.

[FR Doc. 91-2654 Filed 2-7-91; 8:45 am]

**BILLING CODE 3510-08-M**



**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Public Hearings on the Draft Environmental Impact Statement/Management Plan for the Proposed Stellwagen Bank National Marine Sanctuary**

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice.

**SUMMARY:** NOAA, pursuant to section 205(b) of Public Law 100-672, and as required by section 304(a)(3) of Public Law 92-532, as amended, is proposing to designate an approximately 453 square nautical mile area of ocean waters over and surrounding Stellwagen Bank, and the submerged lands thereunder, off the coast of the Commonwealth of Massachusetts, as a National Marine Sanctuary. This notice announces NOAA's intent to hold public hearings on a Draft Environmental Impact Statement/Management Plan (DEIS/MP) for the proposed Stellwagen Bank National Marine Sanctuary. The purpose of the hearings is to receive the views of interested parties on the proposed designation and the DEIS/MP. The views expressed at these hearings, as well as written comments received on the DEIS/MP, will be considered in the preparation of the Final Environmental Impact Statement/Management Plan (FEIS/MP).

**DATES:** The hearings will be held on March 11, 1991, from 7 to 10 p.m. at the National Marine Fisheries Service Conference Room, 1 Blackburn Drive, Gloucester, MA; on March 12, 1991, from 7 to 10 p.m. at Council Chambers, City Hall, 1 Junkins Avenue, Portsmouth NH; on March 13, 1991, from 7 to 10 p.m. at Old Town Hall, Route 3A, Duxbury, MA; on March 14, 1991, from 7 to 10 p.m. at City Hall Auditorium, Commercial Street, Provincetown, MA; and on March 18, 1991, from 1 to 4 p.m. at Auditorium, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. All interested persons are invited to attend.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Durden, Regional Manager, or Ms. Sherrard Foster, Program Specialist, Sanctuaries and Reserves Division,

Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., suite 714, Washington, DC 20235, (202/673-5126). Copies of the DEIS/MP are available upon request to the Sanctuaries and Reserves Division (SRD).

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* on April 19, 1989, NOAA announced Stellwagen Bank, MA, as an active candidate for National Marine Sanctuary designation and the intent to prepare a DEIS/MP and to hold public scoping meetings on the proposal to designate Stellwagen Bank as a National Marine Sanctuary (54 FR 15787). This announcement also described the study area, the natural resources, human uses, and the designation process for the proposed Sanctuary.

NOAA has prepared the DEIS/MP in accordance with National Marine Sanctuary Program regulations (15 CFR part 922); and has published elsewhere in this issue of the *Federal Register* a Notice of Proposed Rule, Notice of Proposed Designation and Summary of Draft Management Plan. EPA has published elsewhere in this issue of the *Federal Register* a notice of public availability of the DEIS/MP. Based on the analysis of information collected from the public scoping meetings, consultations with Federal, State, and local agencies and research scientists, among others, and literature review, NOAA intends to designate an approximately 453 square nautical mile (sq. nmi) area of ocean waters over and surrounding Stellwagen Bank, and the submerged lands thereunder, off the coast of the Commonwealth of Massachusetts, as a National Marine Sanctuary. The preferred boundary alternative forms an approximately rectangular area around the entirety of the submerged Stellwagen Bank feature, except for the southern border, which coincides with the seaward limit of Commonwealth jurisdiction waters, as that limit occurs along the northern end of Cape Cod, MA. The preferred boundary's northern border is situated approximately six nautical miles southeast of Cape Ann (Gloucester), MA.

Three boundary alternatives (including the preferred alternative) are presented in the DEIS/MP. The first boundary alternative is the smallest (approximately 259 sq. nmi) and

encompasses the Stellwagen Bank feature and a portion of Stellwagen Basin, west of the Bank. The second alternative is the preferred alternative, described above. The third alternative (approximately 702 sq. nmi) includes the preferred alternative, with extensions to the north, east, and west. The environmental consequences of each of these three boundary alternatives are described in the DEIS/MP.

The designation of the Stellwagen Bank area as a National Marine Sanctuary would provide an integrated program of resource protection, research and education to assist in the long-term protection and management of its resources and qualities. Resource protection will involve coordination and cooperation with other agencies in formulating comprehensive resource protection policies and procedures, including the enforcement of regulations.

Six regulations are proposed, governing: discharges and deposits (both from within and outside of Sanctuary boundaries); industrial material exploration, development and production activities; alteration of or construction on the seabed (including, but not limited to drilling or digging into, or dredging the seabed); historical resources; and marine reptiles, marine mammals, and seabirds. Two additional activities are potentially subject to regulation: hydrocarbon activities, and commercial vessel traffic (other than fishing). Alternatives to the proposed regulations include status quo and non-regulatory options.

Research planned for the Sanctuary will include conducting baseline studies, as well as monitoring, analysis and prediction projects to provide information needed to further understanding of marine ecosystems, and to aid in resolving management issues. Education programs planned for the Sanctuary will be directed at improving public awareness of the Sanctuary's resources and the need to manage them as wisely as possible to ensure their continuing viability. The Sanctuaries and Reserves Division (SRD) is responsible for the overall management of the proposed Sanctuary. The SRD, represented by an on-site Sanctuary Manager, will coordinate its on-site activities with State, regional, and other Federal agencies, as well as with existing inter-agency programs involving the Gulf of Maine. A Sanctuary Advisory Committee (SAC) will be established to assist interested



groups and agencies in participating in Sanctuary management, and to advise the on-site Sanctuary Manager. The SRD will determine the structure, composition and functions of the SAC. The general administrative framework and specific roles of each agency in Sanctuary management are described in the DEIS/MP.

(Federal Domestic Assistance Catalog  
Number 11.429 Marine Sanctuary Program)

Dated: January 31, 1991.

**Virginia K. Tippie,**

*Assistant Administrator for Ocean Services  
and Coastal Zone Management.*

[FR Doc. 91-2655 Filed 2-7-91; 8:45 am]

BILLING CODE 3510-08-M







# Great Ideas from Federal Register

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**Friday  
February 8, 1991**

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## **Part V**

## **Department of Education**

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**Solicitation of Comments on the Federal  
Data Elements; Notice**



**DEPARTMENT OF EDUCATION****Solicitation of Comments on the Federal Data Elements**

**AGENCY:** Department of Education.

**ACTION:** Notice of solicitation of comments on the Federal data elements.

**SUMMARY:** The Secretary provides notice that the Department of Education is soliciting comments concerning the implementation of the first sentence of section 483(a) of the Higher Education Act of 1965, as amended (HEA) which provides that the Secretary shall prescribe a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under the major student financial assistance programs authorized by title IV of the HEA (Title IV, HEA programs).

**DATES:** Comments must be received on or before March 25, 1991.

**ADDRESSES:** All comments concerning this notice should be addressed to Mr. Stephen D. Carter, Chief, Analysis Section, Pell Grants Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW. (room 4318, ROB-3), Washington, DC 20202-5443.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julia Laurel, Statistician, Pell Grant Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW., (room 4318, ROB-3), Washington, DC 20202-5443. Telephone (202) 708-7888.

**SUPPLEMENTARY INFORMATION:** Section 483(a) of the HEA, 20 U.S.C. 1090(a)(1), requires the Secretary to develop a common financial reporting form to be used in determining the need and eligibility of a student under the major financial assistance programs authorized under the Title IV of the HEA (Title IV, HEA programs). These

programs include the Pell Grant, Supplemental Educational Opportunity Grant, Stafford Loan, College Work-Study, Income Contingent Loan, and Perkins Loan programs.

The Secretary is requesting public comment concerning the 1992-93 Federal data elements. Federal data elements are those questions contained on both the Application for Federal Student Aid (AFSA) and the Federal portion of the Multiple Data Entry applications that can be used to apply for Title IV aid (known as "Federal core"). The Secretary is especially interested in comments concerning the following:

1. All aspects of the design of the Federal core form and instructions, including overall appearance, type sizes, type style, the use of shading, the sequence and arrangement of data elements, and recommendations for additional data elements.

2. The clarity of the Federal core instructions.

3. The burden on the applicant population in completing the form and recommendations for keeping this burden to a minimum.

4. The utility of including in the Federal core a small number of data elements which could eliminate the need for the student to fill out a separate application for a Stafford Loan.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations on all of the above issues. In addition, comments and recommendations relating to the placement, or "flow" of the Federal core questions in the following financial aid applications are requested:

1. Application for Federal Student Aid (AFSA).

2. SingleFile Form (United Student Air Funds).

3. Application for Pennsylvania State Grant and Federal Student Aid (Pennsylvania Higher Education Assistance Agency).

4. Application for Federal and State Student Aid (CSX Commercial Services, Inc.).

5. Family Financial Statement (American College Testing Program).

6. Financial Air Form (College Scholarship Service).

Many states and institutions use the data contained in the "Federal core" to award their own aid. However, some states and institutions require the additional data contained on the Multiple Data Entry forms that are outside the Federal core section. Those questions are not required for the Federal programs. Accordingly, persons should limit their comments to those questions contained in the Federal core sections (sections A through J of the Application for Federal Student Aid) and not comment on the data elements contained in the sections of the above forms reserved for State and institutional aid programs.

All comments submitted to this notice will be available for public inspection, during and after the comment period, in room 4318, ROB-3, 7th and D Streets SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week, except Federal holidays.

(Catalog of Federal Domestic Assistance Numbers: 84.063 Pell Grant Program; 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Stafford Loan Program; 84.033 College Work-Study Program; 84.226 Income Contingent Loan Program; 84.038 Perkins Loan Program)

Dated: February 1, 1991.

**Leonard L. Haynes III,**  
*Assistant Secretary for Postsecondary Education.*

[FR Doc. 91-3051 Filed 2-7-91; 8:45 am]

**BILLING CODE 4000-01-M**



# Rest Area Federal Register

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Friday  
February 8, 1991

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## Part VI

### Department of Defense

Corps of Engineers, Department of the  
Army

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#### 33 CFR Part 334

Restricted Area; New York Harbor,  
Staten Island, New York; Final Rule



## DEPARTMENT OF DEFENSE

## Corps of Engineers, Department of the Army

## 33 CFR Part 334

## Restricted Area, New York Harbor, Staten Island, NY

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

**SUMMARY:** The Corps of Engineers is establishing a naval restricted area in the waters of New York Harbor adjacent to the Naval Station at Stapleton, Staten Island, New York. The purpose of the restricted area is to reduce the safety hazards to vessels in the area and security risks for Government-owned facilities and vessels.

**EFFECTIVE DATE:** February 8, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Tomer at (212) 264-9053 or Mr. Ralph T. Eppard at (202) 272-1783.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is hereby publishing restricted area regulations in 33 CFR 334.85 which establishes a restricted naval area in the waters of New York Harbor adjacent to Pier One Stapleton, Staten Island, Richmond County, New York. The restricted area encompasses the waters surrounding the naval pier where extensive naval operations involving the northeast Surface Action Group will occur. These operations may involve helicopters which will land and take off from naval vessels.

The purpose of the restricted area is to reduce safety hazards and security risks by protecting persons and property from the dangers encountered in naval operations, and by safeguarding the area from accidents, sabotage and other subversive acts. Heavy commercial vessel traffic as well as civilian recreational boating in New York Harbor create the danger of ship collisions and security risks in the vicinity of the Naval Station.

On May 23, 1990, this proposal was published in the Notice of Proposed Rulemaking section of the Federal Register with the comment period expiring on June 22, 1990 (55 FR 21206/21207). In addition, the New York District Engineer published a Public Notice on June 23, 1990, to all known

interested public parties and to Federal, State and local officials or agencies which are included in the New York District computerized public notice mailing list for New York Harbor. Only one comment was received in response to the NPRM or public notice which raised concerns that the Navy might be unable to avoid accidents, in light of current vessel safety problems in New York Harbor (e.g. recent oil spills) and the Navy's overall safety record. The commenter also questioned the need for the Naval base in view of recent military cutbacks. We have determined that the comments relate primarily to the establishment of the Naval base (Homeport), on Staten Island, rather than the proposed restricted area. Similar safety concerns were considered in the District Engineer's decision to issue the permit (DA Permit No. 14190) to the Navy for the Homeport facility. Since the purpose of the restricted area is to protect the public from the risks of damage or injury, as well as to provide security for Government property, we find that the restricted area will alleviate the safety concerns expressed by the commenter.

The restricted area is divided into two parts. The area extending 600 feet easterly or channelward from the U.S. Pierhead Line is closed to all vessels and persons unless specifically authorized to enter by the Commanding Officer, Naval Station, Staten Island. The remainder of the area is open to vessels transiting the area provided they proceed by the most direct route without unnecessary delay or stopping. A portion of the restricted area is within Federal Anchorage 23B, a commercial vessel anchorage. However, commercial vessels which are properly anchored within the anchorage area will be allowed to swing into the seaward portion of the restricted area. This provision was stated in the preamble to the NPRM, but inadvertently omitted from the proposed regulation. Subparagraph 334.85(b)(3) is added to allow commercial vessels to swing into the seaward portion of the restricted area while at anchor and during the tide changes.

## Economic Assessment and Certification

This rule is issued with respect to a military function of the Department of Defense and the provisions of E.O. 12291 do not apply. I hereby certify that this rule will have no significant economic impact on a substantial number of small entities.

## List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps of Engineers is hereby amending part 334 of title 33 as follows:

## PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; 33 U.S.C. 1 and 40 Stat. 892; 33 U.S.C. 3.

2. Part 334 is amended by adding § 334.85, to read as follows:

**§ 334.85 New York Harbor, adjacent to the Stapleton Naval Station, Staten Island, New York; restricted area.**

(a) *The area.* The waters of New York Harbor beginning at a point on shore at latitude 40°38'02" N, longitude 074°04'24" W; thence easterly to latitude 40°38'02.5" N, longitude 074°04'09" W; thence southerly to latitude 40°37'53" N, longitude 074°04'07" W; thence east-southeasterly to latitude 40°37'50" N, longitude 074°03'50.2" W; thence south-southeasterly to latitude 40°37'37.5" N, longitude 074°03'46" W; thence southwesterly to the shore line at latitude 40°37'24.5" N, longitude 074°04'18" W; thence northerly along the shore line to the point of origin.

(b) *The regulations.* (1) The portion of the restricted area extending from the shore out to a line 600 feet east of the U.S. Pierhead Line is closed to all persons and vessels except those vessels owned by, under hire to or performing work for Naval Station New York, Staten Island, New York.

(2) The portion of the restricted area beginning 600 feet seaward of the U.S. Pierhead Line is open to transiting vessels only. Vessels shall proceed across the area by the most direct route and without unnecessary delay. For vessels under sail, necessary tacking shall constitute a direct route.

(3) Commercial vessels at anchor will be permitted to swing into the seaward portion of the restricted area while at anchor and during the tide changes.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Naval Station New York, and such agencies as he/she shall designate.

Dated: January 23, 1991.

Approved

Patrick J. Kelly,  
Major General, USA, Director of Civil Works.  
[FR Doc. 91-3080 Filed 2-7-91; 8:45 am]

BILLING CODE 3710-92-M



# Test great Federal Register

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Friday  
February 8, 1991

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## Part VII

### Department of Justice

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#### Bureau of Prisons

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28 CFR Parts 524 and 540

Control, Custody, Care, Treatment and  
Instruction of Inmates; Classification and  
Program Review of Inmates and Visiting  
Regulations; Proposed Rules



## DEPARTMENT OF JUSTICE

## Bureau of Prisons

## 28 CFR Part 524

## Control, Custody, Care, Treatment and Instruction of Inmates; Classification and Program Review of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons is proposing to amend its rule on Classification and Program Review of Inmates. This proposed amendment makes changes in procedure regarding the preparation of the staff summary and the program review report, requires that goals be stated in measurable terms in order to enhance the review and evaluation functions, requires program involvement if mandated by court order, and provides that a program review be conducted for each inmate following initial classification at least once every 180 days. The intended effect of this amendment is to continue to ensure that inmates are classified to the most appropriate level of custody and programming both on admission and upon review of their status.

DATES: March 25, 1991.

**ADDRESSES:** Office of General Counsel, Bureau of Prisons, HOLC room 741, 320 First Street NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is proposing to amend its rule on Classification and Program Review of Inmates. This proposed amendment makes changes in procedure regarding the preparation of the staff summary and the program review report, requires that goals be stated in measurable terms in order to enhance the review and evaluation functions, requires program involvement if mandated by court order, and provides that a program review be conducted for each inmate following initial classification at least once every 180 days. The existing rule on this subject, which was published in the *Federal Register* May 1, 1981 (46 FR 24899) and amended January 4, 1984 (49 FR 193), had provided for a program review at least once every 90 days in Security Levels 1, 2, and 3 institutions and at least once every 180 days in Security Levels 4, 5, 6, and administrative institutions. Program reviews will continue to be conducted at least once every 90 days for any inmate who is within two years of the projected release date. This proposed amendment

also makes other minor editorial and nomenclature changes which make no change in the intent of the regulation.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC room 741, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

## List of Subjects in 28 CFR Part 524

Prisoners.

Dated: January 29, 1991.

J. Michael Quinlan,  
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter B of 28 CFR chapter V is proposed to be amended as set forth below.

## Subchapter B—Inmate Admission, Classification, and Transfer

## PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521-3528, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed as to conduct occurring on or after November 1, 1987); 5006-5024 (Repealed October 12, 1984 as to conduct occurring after that date); 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart B of 28 CFR part 524, consisting of §§ 524.10 through 524.17, is revised to consist of §§ 524.10 through 524.16 and read as follows:

## Subpart B—Classification and Program Review of Inmates

Sec.

524.10 Purpose and scope

524.11 Classification team.

524.12 Initial classification and program reviews.

524.13 Effect of a detainer on an inmate's program.

524.14 Unscheduled reviews.

Sec.

524.15 Appeals procedure.

524.16 Study and observation cases.

## Subpart B—Classification and Program Review of Inmates

## § 524.10 Purpose and scope.

It is the policy of the Bureau of Prisons to classify each newly committed inmate within four weeks of the inmate's arrival at the institution designated for service of sentence and to conduct subsequent program reviews for each inmate at regular intervals. The Warden shall establish procedures to ensure that a newly committed inmate is promptly assigned to a classification team.

## § 524.11 Classification team.

The Warden shall ensure that each department within the institution has the opportunity to contribute to the classification process.

(a) At a minimum, each classification (unit) team shall include the unit manager, a case manager, and a counselor. An education advisor is also ordinarily a member of the team. Where the institution does not have unit management, the team shall include a case manager, counselor, and one other staff member.

(b) Each member of the classification team shall individually interview the newly arrived inmate within five working days of the inmate's assignment to that team.

## § 524.12 Initial classification and program reviews.

(a) The Warden or designee shall ensure that each newly committed inmate is scheduled for initial classification within four weeks of the inmate's arrival at the designated institution.

(b) Staff shall conduct a program review for each inmate following initial classification at least once every 180 days. When an inmate is within two years of the projected release date, a program review shall be conducted at least once every 90 days.

(c) Staff shall notify an inmate at least 48 hours prior to that inmate's scheduled appearance before the classification team (whether for the initial classification or subsequent program review). An inmate may waive in writing the 48-hour notice requirement. The inmate is expected to attend the initial classification meeting. If the inmate refuses to appear at this meeting, staff shall document in the record of the meeting the inmate's refusal and, if known, the reasons for refusal. An inmate may elect not to attend the subsequent program review(s), but



ordinarily must indicate this intent by signing the program Review Report at least 24 hours prior to the scheduled team meeting. When an inmate does not provide this signed statement, but elects not to attend the program review, staff shall indicate the inmate's refusal to appear and, if known, the reasons for refusal on the Program Review Report. A copy of this report is to be forwarded to the inmate. The inmate is responsible for becoming aware of, and will be held accountable for, the classification team's actions.

(d) Staff shall complete a Program Review Report at the inmate's initial classification. This report ordinarily includes information on the apparent needs of the inmate and shall offer a correctional program designed to meet those needs. The Program Review Report is to be signed by the unit manager and the inmate, and a copy is to be provided to the inmate. The correctional programs will be stated in measurable terms, establishing time limits, performance levels, and specific, expected program accomplishments. Staff will document progress and any program changes at subsequent reviews in the same manner in a new Program Review Report. Each sentenced inmate who is physically and mentally able is assigned to a work program at the time of initial classification. The inmate may choose not to participate in the offered program, unless the program is a work assignment, or mandated by Bureau policy, by court order, or by statute.

(e) The inmate is to be provided with, and must sign for, a copy of the Program Review Report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report. Staff shall place a copy of the Program Review Report in the inmate's central file.

(f) A staff summary, prepared in memorandum form and signed by both the case manager and unit manager, is required for inmates for whom no presentence investigation is available, for inmates who are serving a period of study and observation, or for inmates who have applied for transfer to a foreign country under the provisions of the treaty transfer program (28 CFR 527, subpart E). In such cases, the staff summary will be completed within five working days of initial classification or before the completion of the study and observation case and will include information on the inmate's current offense and prior record, status of pending charges, level of education, marital history, substance abuse history, physical health status and history,

mental health status and community resources. A copy of the staff summary will be provided to the inmate upon the inmate's request. A staff summary will not be routinely prepared in cases except as noted above, or for inmates serving sentences of less than one year.

#### **§ 524.13 Effect of a detainer on an inmate's program.**

The existence of a detainer, by itself, ordinarily does not affect the inmate's program. An exception may occur where the program is contingent on a specific issue (for example, custody) which is affected by the detainer.

#### **§ 524.14 Unscheduled reviews.**

Staff shall establish a procedure to ensure that inmates are provided program reviews as required by this rule. Upon request of either the inmate or staff, and with the concurrence of the team chairperson, an advanced program review may occur.

#### **§ 524.15 Appeals procedure.**

An inmate may appeal, through the Administrative Remedy Procedure, a decision made at initial classification or at a program review.

#### **§ 524.16 Study and observation cases.**

Inmates committed to the custody of the U.S. Attorney General for purposes of study and observation are excluded from the provisions of this rule, except for the preparation of a staff summary as noted in § 524.12(f) of this part.

[FR Doc. 91-3091 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-05-M

### **28 CFR Part 540**

#### **Control, Custody, Care, Treatment and Instruction of Inmates; Visiting Regulations**

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons is proposing to amend its rule on Visiting Regulations. The proposed amendment would raise the age requirement from sixteen to eighteen for visits by children unaccompanied by a responsible adult; clarify visiting procedures for inmates in detention or segregation status; make minor procedural changes for the preparation of the visiting list; update references to statutory penalties for providing or attempting to provide contraband to inmates, and make other editorial changes. The intended effect of this amendment is to provide for the

continued orderly operation of inmate visiting.

**DATES:** Comments due by March 25, 1991.

**ADDRESSES:** Office of General Counsel, Bureau of Prisons, HOLC room 741, 320 First Street NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is proposing to amend its rule on Visiting Regulations. A final rule on this subject was published in the *Federal Register* June 30, 1980 (45 FR 44220), and was amended on July 18, 1986 (51 FR 26126) and on February 1, 1991 (56 FR 4158).

Section 540.44(e) would be amended to raise the age requirement from sixteen to eighteen for visits by children unaccompanied by a responsible adult. This change is made in recognition that eighteen is the age at which, under federal law, a person is an adult and may be held fully responsible for any misconduct. In § 540.50, paragraph (c) is revised to clarify that an inmate in detention or segregation status ordinarily may receive visits under the same rules and regulations that apply to general population inmates, providing such visits do not pose a threat to the security or orderly operation of the institution. In such cases, the Warden may authorize special visiting procedures to preclude such a threat. In § 540.51, paragraph (b)(1) is amended by revising the phrase "shall prepare a list of all visitors" to read "shall compile a visiting list" and paragraph (b)(4) is amended by updating references to statutory penalties for providing or attempting to provide to an inmate anything whatsoever without the knowledge and consent of the Warden. In addition, various editorial changes are proposed which make no change in the intent of the regulation.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purposes of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, room 741, 320 First Street, NW., Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. The proposed rule may be changed in light of



the comments received. No oral hearings are contemplated.

#### List of Subjects in 28 CFR Part 540

Prisoners.

Dated: February 4, 1991.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), it is proposed to amend part 540 in subchapter C of 28 CFR, chapter V as set forth below.

#### Subchapter C—Institutional Management

#### PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 is revised to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3571, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

#### § 540.40 [Amended].

2. Section 540.40 is amended by revising, in the last sentence, the word "insure" to read "ensure".

3. In § 540.44, paragraph (e) is amended by revising the heading and first sentence to read as follows:

#### § 540.44 Regular visitors.

\* \* \* \* \*

(e) Children under Eighteen—Children under the age of eighteen may not visit unless accompanied by a responsible adult. \* \* \*

4. In § 540.50, paragraph (b)(1) is amended by revising the phrase "Health Systems Administrator" to read "Health Services Administrator", and paragraph (c) is revised to read as follows:

#### § 540.50 Visits to inmates not in regular population status.

\* \* \* \* \*

(c) Detention or Segregation Status—An inmate in administrative detention or disciplinary segregation status may ordinarily receive visits in accordance with the same rules and regulations that apply to general population inmates, providing such visits do not pose a threat to the security or orderly operation of the institution. In such cases, the Warden may authorize special visiting procedures to preclude such a threat.

5. In § 540.51, paragraph (g)(2) is amended by adding a comma after the word "embracing" in the first and in the second sentences, paragraph (g)(4) is amended by revising, in the first sentence, the word "officer" to read "visiting room officer", paragraph (b)(1) is revised, and paragraph (b)(4) is amended by revising the last sentence to read as follows:

#### § 540.51 Procedures.

\* \* \* \* \*

(b) \* \* \*

(1) Staff shall ask each inmate to submit during the admission-orientation process a list of proposed visitors. After appropriate investigation, staff shall compile a visiting list for each inmate and distribute that list to the inmate and the visiting room officer.

\* \* \* \* \*

(4) \* \* \* The visiting guidelines shall include specific directions for reaching the institution and shall cite 18 U.S.C. 1791, which provides a penalty of imprisonment for not more than twenty years, a fine, or both for providing or attempting to provide to an inmate anything whatsoever without the knowledge and consent of the Warden.

\* \* \* \* \*

[FR Doc. 91-3092 Filed 2-7-91; 8:45 am]

BILLING CODE 4410-05-M



# Reader Aids

Federal Register

Vol. 58, No. 27

Friday, February 8, 1991

## INFORMATION AND ASSISTANCE

### Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

### Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

### Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

### Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

### The United States Government Manual

General information	523-5230
---------------------	----------

### Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

## FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3961-4172	1
4173-4522	4
4523-4706	5
4707-4926	6
4927-5150	7
5151-5304	8

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

<b>Proclamations:</b>	
5617 (Revoked by 6245)	4921
5955 (Revoked by 6245)	4921
6123 (See 6245)	4921
6152 (See 6245)	4921
6243	4701
6244	4707
6245	4921
6246	4927

### Executive Orders:

10982 (Amended by 12748)	4521
11721 (Revoked by 12748)	4521
12154 (Amended by EO 12749)	4921
12748	4521
12749	4711

### Administrative Orders:

<b>Presidential Determinations:</b>	
No. 91-15 of January 15, 1991	4713
No. 91-16 of January 16, 1991	4715
No. 91-17 of January 16, 1991	4717
No. 91-18 of January 22, 1991	4169
No. 91-19 of January 23, 1991	4171

### 5 CFR

831	4929
842	4929
2637	3961
2641	3961

### Proposed Rules:

531	4562
536	4562
772	4562
831	4562
842	4562
846	4562
870	4562
890	4562

### 7 CFR

17	3966
47	5151
301	4931-4933
800	4675
932	4223
982	5151
998	4524
1430	4525
1941	3971
1943	3971
1945	3971

### Proposed Rules:

58	4951
319	4180
425	4738
915	4953
966	3983
968	5161
1001	4955
1002	4955
1007	4567
1093	4567
1094	4567
1096	4567
1108	4567
1496	5161
1980	4567

### 9 CFR

78	4936, 4937
----	------------

### 12 CFR

#### Proposed Rules:

229	4743
701	5061

### 14 CFR

39	3972, 3874, 4532, 4540
71	5153, 5154
73	5154
93	4676

#### Proposed Rules:

Ch. I	5164
21	4581, 4758
23	4581, 4758
39	3983, 4581
71	4583, 4584, 4760, 4956, 5164
75	5165
108	4322
129	4328
158	4678

### 15 CFR

#### Proposed Rules:

940	5282
-----	------

### 17 CFR

211	4938
-----	------

### 18 CFR

271	4173
385	4719

### 19 CFR

4	4174
---	------

### 20 CFR

404	4542
-----	------

#### Proposed Rules:

Ch. IX	5124
330	4585



626..... 5124  
658..... 5124

**21 CFR****Proposed Rules:**

101..... 4675  
104..... 4675  
105..... 4675  
1301..... 3987, 4181, 4182  
1304..... 4181

**22 CFR****Proposed Rules:**

521..... 4761

**23 CFR**

230..... 4720

**24 CFR**

Subtitle A...4412, 4436, 4458,  
4494  
91..... 4480  
203..... 4476  
234..... 4476

**26 CFR**

1..... 3976, 4542, 5062  
301..... 4676  
602..... 4676  
**Proposed Rules:**  
31..... 3988, 4023, 4183-4243,  
4588, 4770, 4956  
42..... 4589  
43..... 4590

**27 CFR****Proposed Rules:**

4..... 4770

**28 CFR**

14..... 4943  
511..... 4158  
540..... 4158  
541..... 4158  
**Proposed Rules:**  
524..... 5302  
540..... 5303

**29 CFR**

1926..... 5061

**30 CFR**

901..... 4542  
917..... 4721  
**Proposed Rules:**  
701..... 4956  
816..... 4956  
817..... 4956  
917..... 4590  
943..... 4243

**33 CFR**

117..... 4175  
165..... 4559, 4943, 5155, 5156  
334..... 5300  
**Proposed Rules:**  
117..... 4023, 4024, 5166  
151..... 4676  
1222..... 3978

**34 CFR**

74..... 4675  
80..... 4675

**36 CFR**

217..... 4721

**38 CFR**

3..... 4729  
**Proposed Rules:**  
17..... 4025

**40 CFR**

52..... 4944  
60..... 4176  
180..... 4946  
261..... 3979

**Proposed Rules:**

Ch. I..... 4957, 5167  
52..... 5173  
136..... 5090  
144..... 4772  
145..... 4772  
146..... 4772  
147..... 4772  
148..... 4772  
180..... 4772, 4959  
228..... 4777

**41 CFR**

201-4..... 4947  
201-9..... 4947  
201-18..... 4947  
201-20..... 4947  
201-23..... 4947  
201-24..... 4947  
201-39..... 4947

**42 CFR**

410..... 4675  
**Proposed Rules:**  
Ch. I..... 4961

**43 CFR**

4..... 5061

**45 CFR**

1235..... 4730

**46 CFR**

380..... 3979

**47 CFR**

73..... 4176-4178, 4733, 4949,  
4950, 5157, 5158  
80..... 4734  
90..... 4178  
**Proposed Rules:**  
64..... 4782  
69..... 5190  
73..... 4783-4785, 5191  
76..... 4027

**48 CFR**

570..... 4734  
915..... 5064  
950..... 5064  
970..... 5064

**49 CFR**

1..... 4560, 4736  
541..... 4736  
**Proposed Rules:**  
571..... 5061  
1033..... 4028

**50 CFR**

652..... 3980  
672..... 5158  
683..... 5159  
685..... 5159

**Proposed Rules:**

17..... 4028, 5192  
23..... 4965  
91..... 4591  
216..... 4029  
301..... 4029  
611..... 4029  
672..... 4029  
675..... 4029

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Last List February 5, 1991



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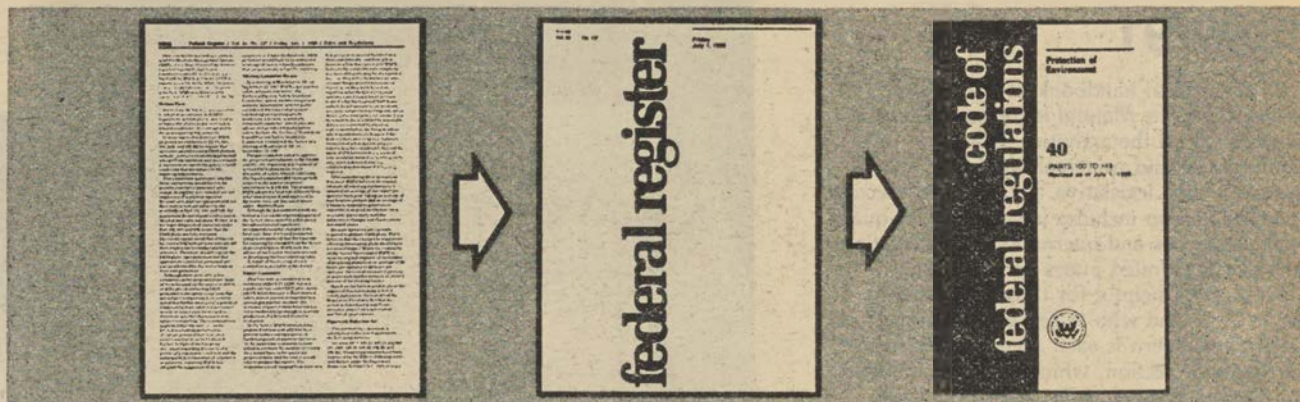
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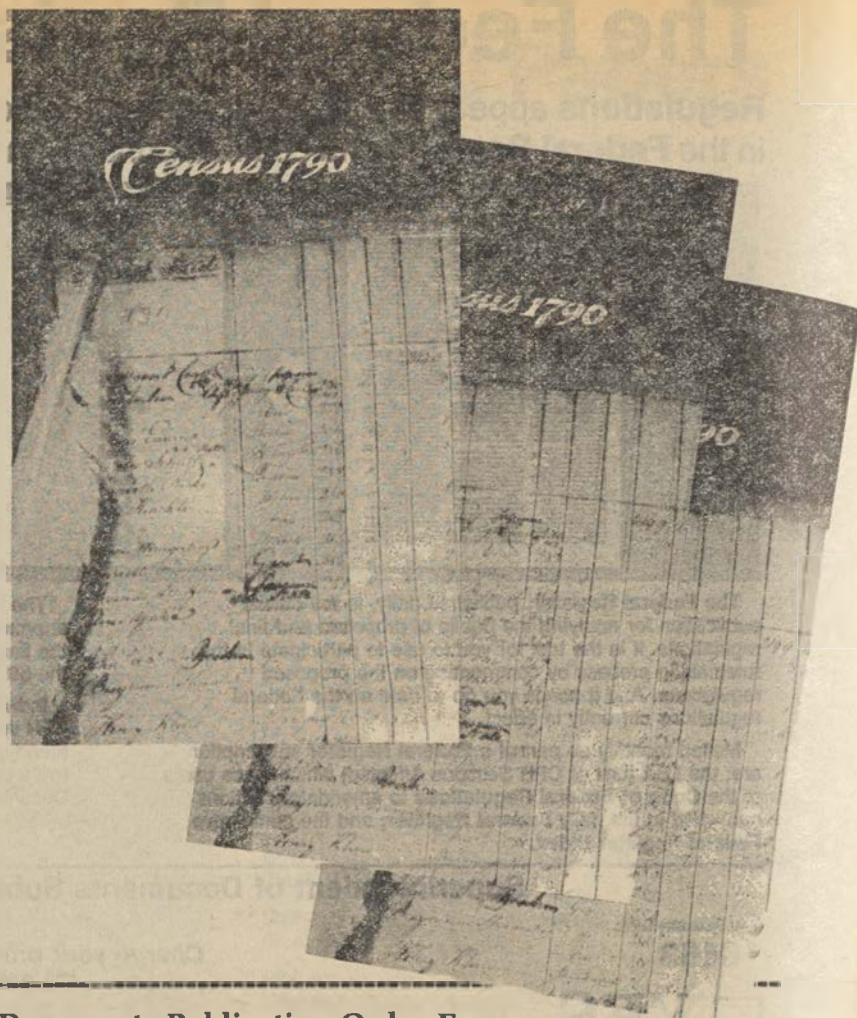
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